

## CHAPTER 16

### Land Use Code

#### Article III

#### Zoning

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**ARTICLE III****Zoning***Division 1**General***Sec. 16-3-10. General provisions.**

(a) In their interpretation and application, the provisions of these zoning regulations shall be held to be minimum requirements adopted for the promotion of the public health, safety, morals, convenience, comfort, prosperity and general welfare.

(b) Uniformity of Regulations. The regulations established by this Article within each zone shall apply uniformly to each class or kind of structure or land. Unless exceptions are specified in this Article, the following interpretations shall apply:

(1) No buildings, structure or land shall be used or occupied, and no building, structure or part thereof shall be erected, changed, constructed, moved or structurally altered unless in conformity with all of the regulations herein specified for the zone in which it is located. Where a lot is divided by a zoning district boundary line by the current official zoning map or by subsequent amendments to the zoning map, the zoning requirements may be extended within the lot for a distance of not more than twenty-five (25) feet.

(2) No building or other structure shall be erected or altered:

- a. To exceed the height limitations.
- b. To accommodate or house a greater number of families.
- c. To occupy a greater percentage of the area.
- d. To have narrower or smaller rear yards, front yards, side yards or other open spaces.

(3) No part of a yard, or other open space, or off-street parking or loading space required about or in connection with any building for the purpose of complying with this Article, shall be included as part of a yard, open space or off-street parking or loading space similarly required for any other building unless specific exception therefore is stated in this Article. Exceptions may be granted by the Board of Trustees for infill development.

(4) No yard or lot existing or approved at the time of passage of this Code shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this Code shall meet at least the minimum requirements established by this Code.

(5) Any use not permitted in a zone either specifically or by interpretation by the Board of Trustees per Section 16-3-210 of this Article is hereby specifically prohibited from that zone.

(6) The Town shall withhold building permits, occupancy certificates, final inspection certificates and any other certificates or permits provided for by any building code or other law, if a violation of this Article exists with respect to the land to which the permit or certificate pertains, or such a violation would exist upon the exercise of the privilege granted by the permit or certificate.

(7) No building shall hereafter be changed to a residential, business, commercial or industrial use, nor shall any new structure, building or land be occupied for a residential, business, commercial or industrial use unless the owner has first obtained a certificate of occupancy from the Building Official. Provided that the use is in conformance with the provisions of this Article, a certificate of occupancy shall be issued within a reasonable time after written notification that the building is ready for occupancy.

(8) The fact that land is zoned pursuant to this Article does not excuse compliance with Town subdivision regulations and community design and development standards.

(c) Conflict with Other Provisions of Law. Whenever the requirements of this Article are at a variance with the requirements of any other lawfully adopted rules, regulations or ordinances, the more restrictive or that imposing the higher standards shall govern.

(d) Conflict with Private Covenants or Deeds. In case of a conflict between this Code and any private restrictions imposed by covenant or deed, the responsibility of the Town of Milliken shall be limited to the enforcement of this Code. When provisions within this Code are more restrictive than those imposed by covenant or deed, or when any such private instruments are silent on matters contained within this Code, the provisions of this Code shall rule.

(e) Zoning of Annexed Territory.

(1) Zoning of land during annexation may be done in accordance with the procedure and notice requirements of this Section. The proposed zoning ordinance shall not be passed before the date when the annexation ordinance is passed.

(2) Any area annexed shall be brought under the provisions of this Section and the map there under within ninety (90) days from the effective date of the annexation ordinance, despite any legal review that may be made challenging the annexation. During such ninety-day period, or such portion thereof as is required to zone the territory, the Town shall refuse to issue any building permit for any portion or all of the newly annexed area.

(f) Previous Zoning Ordinance. At the effective date of the initial code, all territory in the Town had been zoned pursuant to an earlier zoning ordinance that had been amended from time to time. That earlier code, as it existed on the effective date of the initial code, will be referred to hereinafter as the "Zoning Ordinance." The zoning district classifications are assigned to the territory of the Town pursuant to the zoning map. The Zoning Ordinance and the last zoning map hereunder are hereby made a part of this Article, in order to facilitate application of the nonconforming use provisions of this Article and of certain additional provisions of this Article.

(g) Administrative Official. The Town Clerk shall administer this Article, with the assistance from other Town employees. The Town Clerk is referred to as the "administrative official" in this Article. The function of administering this Article shall include, but not necessarily be limited to, reviewing proposed construction projects and other proposed land use activities to determine compliance with this Article; interpreting words, phrases and concepts contained herein; obtaining factual material needed for making decisions which this Article requires to be made; and performing other duties specifically or impliedly delegated to the administration official by other sections of this Article.

(h) Enforcement Official.

(1) The Town Clerk shall be responsible for enforcing compliance with this Article. The Town Clerk may designate other Town employees assigned to the Town Clerk's office to assist him or her. The Town Clerk is also referred to as the "enforcement official" in this Article.

(2) The enforcement official shall have authority to notify owners or occupiers of land in the Town of violations of this Article, and to issue orders requiring compliance within specified times, not longer than six (6) months unless a longer time is specified by the Zoning Board of Appeals.

(3) The enforcement official may initiate proceedings in the Municipal Court for the punishment of persons who violate this Article. The issuance of a notice or order pursuant to Subsection (2) above shall not be a prerequisite to the initiation of any such proceeding in the Municipal Court. (Ord. 480 §3.1, 2003)

#### **Sec. 16-3-20. Purpose.**

The purpose of this Zoning Code is to create a vital, cohesive, well-designed community in order to enhance the Town of Milliken's small-town character and further the citizens' goals as identified in the Comprehensive Plan. These zoning regulations are designed:

- (1) To promote the health, safety, aesthetics, morals and general welfare of the community;
- (2) To lessen congestion in the streets and enhance pedestrian and vehicular movement with the least detriment to environmental quality;
- (3) To secure the safety of the people against fire, panic, flood waters and other dangers;
- (4) To provide adequate light and air, to prevent the overcrowding of land and to avoid the undue concentration of population;
- (5) To regulate the location of activities and developments which could produce significant changes in population density;
- (6) To classify land use and distribute land development and utilize in a way which will benefit the community; to regulate development and activities in hazardous areas; and to regulate the use of land on the basis of the impact thereof on the community and other surrounding areas;

- (7) To provide, in conjunction with other laws and regulations, for transportation, water, schools, sewage treatment and other public requirements;
- (8) To preserve mineral lands for needed development;
- (9) To provide for phased development of government services and facilities and to aid in realizing the policies, objectives and goals of the Comprehensive Plan;
- (10) To encourage innovations in land uses in order to take advantage of improvements in the technology of land use and development;
- (11) To encourage and facilitate the orderly growth and expansion of the Town, while at the same time protecting the environment in a manner consistent with constitutional rights;
- (12) To construct new domestic water and sewer systems in areas which result in minimal environmental damage;
- (13) To permit extension of domestic water and sewage systems in those areas in which the anticipated growth and development that may occur as a result of such extension can be accommodated within the environmental and financial capacity of the area;
- (14) To encourage traditional neighborhood residential mixed and multiple-use developments, so the growing demand for housing may be met;
- (15) To protect the environmental and cultural heritage of the community; and
- (16) To ensure quality development that will present and enhance the quality of life for residents of the Town. (Ord. 480 §3.2, 2003)

*Division 2*  
*Zoning Districts and Boundaries*

**Sec. 16-3-110. Zoning Districts.**

In order to carry out the provisions of this Code, the Town is divided into the following zoning districts:

DR	Developing Resource
A	Agricultural
AE	Agricultural Estates
CD	Conservation
E-1	Estate Zoning – Rural Subdivision
R-1	Single-Family Residential
R-1E	Single-Family Estate Residential

R-2	Two-Family Residential
R-3	Multi-Family Residential
R-M	Mobile Home Community
R-MH	Manufactured Housing District
C-1	Office
C-2	Local Business
C-3	General Business
C-4	Service Business
MU-C-D	Mixed Use Commercial - Downtown
I-1	Light Industrial
I-2	Medium Industrial
I-3	Heavy Industrial
PUD	Planned Unit Development
HSP	Hillside/Ridgeline Protection Overlay

(Ord. 480 §3.3, 2003)

**Sec. 16-3-120. Zoning District Map.**

The boundaries and classifications of districts established are as depicted on a map entitled Town Zoning District Map, as may from time to time be revised, updated or redrafted. The official zoning district map adopted and to be used for present reference shall be that map bearing the most recent date of publication that has been signed by the Town Clerk and the Mayor.

(1) Interpretation of Boundary Lines.

a. *Zoning District Boundaries* – In the event uncertainty is deemed to exist on the zoning district map, district boundaries shall be on section lines, lot lines, the center lines of highways, streets, alleys, railroad rights-of-way or such lines extended; municipal corporation lines; natural boundary lines, such as streams; or other lines to be determined by the use of scales shown on the map. Where a lot is divided by a zoning district boundary line at the time of enactment of the ordinance codified in this section or by subsequent amendments to that ordinance or this Article, either zone requirements may be extended within the lot for a distance of not more than twenty-five (25) feet. If, after application of the foregoing rules, uncertainty still exists as to the exact location of a zoning district boundary line, the line shall be determined by the Town Clerk in a reasonable manner, considering the history of the Town's zoning ordinances and amendments, and other factors he or she deems relevant; his or her decision shall be subject to review by the Board of Trustees.

b. *Floodplain District Boundaries* – Floodplain district boundaries, as depicted by separate maps, are estimates based upon data verified from the Colorado Water Conservation Board, Federal Emergency Management Agency (FEMA) or the Board of Trustees on flood-prone areas.

(2) Amendment Upon Zoning or Modification. Upon enactment of any ordinance annexing and establishing zoning or modifying existing zoning for any property, and upon final passage thereof, the Town shall amend the prior existing official map to include the annexed area with the proper zoning classification or show the amended classification, as the case may be. Such updated, current official map shall contain, in table form, the date and number of the ordinance amending it, the date the map was amended to reflect each amendment and the initials of the person who checked and approved the change to the map.

(3) Cost For Amending Zoning. Any person who proposes zoning for property being annexed or proposes modifying existing zoning shall bear the entire cost of amending the official zoning map, including all notification costs. The Town shall provide applicants with a copy of the current fee schedule and fee agreement form.

(4) Public Inspection; Storage of Original. The official zoning district map shall be available and on display at the Town Hall during normal business hours. In addition, one (1) original duplicate Mylar copy of the current official map, and all prior official maps having been adopted, shall be held under lock and in a secure place by the Town Clerk, who shall act as custodian thereof, and the map shall not be amended, changed, updated or otherwise modified or let out of direct control of the Town Clerk for any reason whatsoever. The secured map is to be released for inspection only upon authorization of the Town Clerk. (Ord. 480 §3.3, 2003)

*Division 3*  
*Uses by Right and Special Review Uses*

**Sec. 16-3-210. General application of uses.**

(a) Uses designated as *uses by right* are allowed in a zone district as a matter of right. Uses classified as *uses by special review* are permitted upon the Board of Trustees' approval of a special use permit, pursuant to the procedures and standards set forth in Section 16-3-500 of this Article. Unless a use is designated as a *use by right* or *use by special review* or is classified as a legal nonconforming building, structure or use, it is not permitted.

(b) If this Article does not identify a land use as a use by right or an accessory use in a particular zoning district, or if the use is not identified as a use by special review, the use is prohibited in that district. If a particular land use is not permitted in a zoning district, a building that is designed for that land use also is prohibited. For example, if the sale of merchandise at retail is prohibited in a particular zoning district that does permit residential uses, a store building would be prohibited in that district, even though used as a residence. Similarly, if a land use is described by reference to a type of building, the only land uses intended to be covered by the description are those for which the building is designed.

(c) If a land use could be classified under two (2) or more land use descriptions, the land use shall be classified according to that description which most specifically describes it.

(d) The administrative official shall make the initial determination as to the land use descriptions contained in this Article that best identify an actual land use or proposed land use.



(e) Unspecified Uses. Notwithstanding the foregoing, land uses not otherwise identified in this Code may be proposed for development. In order to provide for such uses, the classification of any new or unlisted land use shall be made by the Board of Trustees to determine if the use can be reasonably interpreted to fit into a similar use category described in this Code. The Board will determine if such unspecified use shall be considered a use by right, accessory use or use by special review within any particular zone district. Unless such determination is made, the use is not permitted. An applicant shall make a request for such determination in writing and submit it to the Town Clerk. The Board of Trustees shall consider the request at a regularly scheduled meeting. (Ord. 480 §3.4, 2003)

**Sec. 16-3-220. Special classification of mineral lands and floodplain areas.**

With one (1) exception, the zoning district classifications provided for in this Article refer to the uses of land, rather than to the characteristics of land itself. The one (1) exception is the Conservation District (CD), which is included in order to provide a means for classifying land by reference to its inherent characteristics. Therefore, all land in the Town that is subject to classification under the Conservation District (CD) shall be assigned only to that district, regardless of the use that an owner desires to make of such land. (Ord. 480 §3.4, 2003)

**Sec. 16-3-230. Accessory uses and accessory buildings in residential zoning districts.**

Land in residential zoning districts may be used in ways and for purposes that are clearly incidental to the principal uses. Such incidental uses in residential districts include, by way of example, the cultivation of flowers, plants and vegetables for private consumption and the maintenance and use of private swimming pools, hot tubs and tennis courts. Under no circumstance shall a commercial use be deemed an incidental use in a residential neighborhood. In addition to the general types of accessory uses authorized above, the following specific accessory uses are authorized in any of the residential zoning districts (AE, E-1, R-1, R-1E, R-2, R-3, R-M, R-MH):

- (1) Home occupations that comply with the provisions of Section 16-3-620 of this Article.
- (2) Accessory buildings. Such buildings shall not exceed a height of fifteen (15) feet or an area greater than seven hundred twenty (720) square feet.
- (3) One (1) radio tower not exceeding sixty (60) feet in height.
- (4) Satellite dishes.
- (5) Fences. (Ord. 480 §3.4, 2003)

**Sec. 16-3-240. Accessory uses and accessory buildings in commercial districts.**

Land in commercial zoning districts may be used in ways and for purposes that are clearly incidental to the principal uses. Accessory uses and accessory buildings in commercial districts shall include:

- (1) Garden areas.

- (2) Playground areas for the convenience of shoppers.
- (3) Radio towers not exceeding sixty (60) feet in height.
- (4) Parking spaces and structures for the use of employees and customers and for the loading and parking of delivery vehicles.
- (5) Accessory buildings for the storage of supplies and materials used by employees. External storage of supplies and/or materials is prohibited except within an approved accessory building. Fences are not considered accessory buildings. (Ord. 480 §3.4, 2003)

**Sec. 16-3-250. Uses by special review in commercial districts, generally.**

One (1) or more of the following uses may be made of land in any commercial zoning district if special approval is given by the Board of Trustees, pursuant to the procedures and standards set forth in Section 16-3-500 of this Article:

- (1) Uses by right in the residential districts, not including the R-M and R-MH Districts.
- (2) Cemeteries.
- (3) Child care centers.
- (4) Radio towers over sixty (60) feet in height.
- (5) Signs not meeting the requirements of Article VII of this Chapter.
- (6) Uses by special review other than those specified in this Section are permitted in some but not all of the commercial zoning districts, to the extent that those additional uses by special review are listed in this Article. (Ord. 480 §3.4, 2003)

**Sec. 16-3-260. Accessory uses and accessory buildings in industrial districts.**

Land in any particular industrial district may be used in ways and purposes that are clearly incidental to the principal uses authorized in the district. Accessory uses and accessory buildings in industrial districts shall include:

- (1) Parking spaces and structures for the use of employees and customers and for the loading and parking of delivery vehicles.
- (2) Radio towers not exceeding sixty (60) feet in height.
- (3) Accessory buildings for the storage of supplies and materials used by employees.
- (4) Accessory buildings for the housing of guards, night watchmen or maintenance personnel. (Ord. 480 §3.4, 2003)

**Sec. 16-3-270. DR Developing Resource District.**

(a) Intent. The Developing Resource District is intended to provide for the annexation of those properties that are presently used for agriculture or other nonurban uses and for which there are no specific and immediate plans for development. These areas are designated on the Comprehensive Plan as potentially suitable for urban development, but not in the immediate future because of lack of utilities, other services or other uses.

(b) Permitted Uses.

(1) The following uses are permitted in the DR District:

a. No use shall be permitted on properties in the DR District except such use as existed on the date the property was placed into this District. No permanent structures shall be constructed on any land in this District, except that at the time of zoning or rezoning of the property into this District, the Board of Trustees may grant a waiver permitting the installation or enlargement of a permanent structure containing a use which was existing, or is ancillary to the use of the property, at the time of such zoning or rezoning upon the following conditions:

1. The owner of the property, prior to the Board of Trustees meeting at which the zoning or rezoning is to be heard, shall submit a site plan showing in reasonable detail the existing and proposed uses of such property.

2. The Board of Trustees shall grant such waiver only upon a finding that the strict application of this Land Use Code relating to nonconforming uses would result in exceptional or undue hardship upon the owner of the property and that the waiver may be granted without substantial detriment to the public good and without substantially impairing the intent and purposes of the nonconforming use provisions of this Land Use Code.

b. After the property has been placed in the DR District, the Board of Trustees may grant a waiver in accordance with Section 16-3-530 of this Article and subject to the criteria established for the Board of Trustees in Subparagraph a. above permitting installation or enlargement of a permanent structure containing a use which was existing at the time the property was placed in this District, or containing a use which is ancillary to such existing use.

(2) The owner of any property in the DR District may at any time petition the Town to remove the property from this zone district and place it in another zone district. Any such petition shall be referred to the Planning Commission to be considered consistent with rezoning procedures as established in Section 16-3-540 of this Article.

(3) Any use that was nonconforming upon a parcel prior to placement into this zone district shall continue to be nonconforming upon removal of such parcel or property from this zone district unless such parcel is placed into a zone district where such use is listed as a permitted use. (Ord. 480 §3.4, 2003)

**Sec. 16-3-280. A Agricultural District.**

(a) Intent. Agriculture in the Town is considered a valuable resource that must be protected from adverse impacts resulting from uncontrolled and undirected business, industrial and residential land uses. The A District is established to maintain and promote agriculture as an essential feature of the Town. The A District is intended to provide areas for the conduct of agricultural activities and activities related to agriculture and agricultural production without the interference of other incompatible land uses. The A District is also intended to provide areas for the conduct of uses by special review which have been determined to be more intense or to have a potentially greater impact than uses allowed by right. The A District regulations are established to promote the health, safety and general welfare of the present and future residents of the Town.

(b) Uses by Right. Uses by right in the A District shall be as follows:

- (1) Accessory buildings and accessory uses.
- (2) Animal boarding, including kennels, as restricted.
- (3) Borrow pits used temporarily and exclusively for the completion of a public road improvement project.
- (4) Cemeteries.
- (5) Cultivation, storage and sale of crops, vegetables, plants, flowers and nursery stock produced on the premises.
- (6) Disposal of domestic sewage sludge subject to the additional requirements of Section 48 of the Weld County Zoning Ordinance.
- (7) Disposal of domestic septic sludge subject to the additional requirements of Section 49 of the Weld County Zoning Ordinance.
- (8) Farming, ranching and gardening.
- (9) Grazing and keeping of livestock, as restricted (animal units).
- (10) Home occupations.
- (11) Horseback riding stables and arenas.
- (12) Open air farmers' markets.
- (13) Police and fire stations or facilities.
- (14) Public recreational facilities.
- (15) Public schools and public school extension classes.

- (16) Single-family detached dwelling, as restricted.
- (17) Utility service facilities.
- (18) Veterinary facilities, small animal clinics.
- (19) Veterinary facilities, large animal clinics.
- (c) Uses by Special Review. Uses by special review in the A District shall be as follows:
  - (1) Accessory dwelling when associated with a use by right.
  - (2) Accessory buildings with gross floor area larger than one thousand five hundred (1,500) square feet per building on lots in an approved or recorded subdivision plat or lots part of a map or plan filed prior to adoption of any regulations controlling subdivisions.
  - (3) Agricultural service establishments.
  - (4) Airports and airstrips.
  - (5) Child care centers.
  - (6) Churches.
  - (7) Commercial mineral extraction, processes and sales.
  - (8) Community facilities.
  - (9) Gas, oil and other hydrocarbon well drilling and production (as permitted by state and local regulations).
  - (10) Home occupations.
  - (11) Keeping, raising and boarding of exotic animals.
  - (12) Livestock confinement operations.
  - (13) Multi-family dwellings, as restricted.
  - (14) Private recreational facilities.
  - (15) Signs not meeting the requirements of Article VII of this Chapter.
  - (16) Utility service facilities, with buildings or storage structures.
  - (17) Wireless telecommunication facilities, as restricted. (Ord. 480 §3.4, 2003)

**Sec. 16-3-290. AE Agricultural Estate District.**

(a) Intent. The AE Agricultural Estate District is intended to provide the present and future residents of the Town with areas in which to locate and establish residential land uses and land uses that are compatible with large lot residential areas and agriculturally related uses. The AE District is intended to be located, designed and developed in a manner that is compatible with the Comprehensive Plan.

(b) Uses by Right. Uses by right in the AE District shall be as follows:

(1) Accessory buildings and accessory uses.

(2) Cluster development.

(3) Cultivation, storage and sale of crops, vegetables, plants, flowers and nursery stock produced on the premises.

(4) Farming, including but not limited to, gardening, horticulture, fruit growing, growing of vegetables, trees, shrubs, plants, turf and sod.

(5) Group homes for up to eight (8) developmentally disabled persons, handicapped individuals, children or senior citizens.

(6) Home occupations.

(7) Keeping of livestock, as restricted (animal units).

(8) Police and fire stations or facilities.

(9) Public recreational facilities.

(10) Public schools and public school extension classes.

(11) Single-family detached dwelling, as restricted.

(12) Utility service facilities.

(b) Uses by Special Review. Uses by special review in the AE District shall be as follows:

(1) Accessory dwelling when associated with a use by right.

(2) Child care centers.

(3) Churches.

(4) Horseback riding stables and arenas.

(5) Gas, oil and other hydrocarbon well drilling and production (subject to state and local regulations).

- (6) Livestock confinement operations.
- (7) Private recreational facilities.
- (8) Private schools.
- (9) Signs not meeting the requirements of Article VII of this Chapter. (Ord. 480 §3.4, 2003)

**Sec. 16-3-300. CD Conservation District.**

(a) Intent. The Conservation District (CD) zone is provided for in this Article in order to include a zoning classification for land that lies within floodplains and for land containing commercial mineral deposits.

(b) Uses by Right. Uses by right in the CD District that lie within the designated floodplain shall be as follows:

(1) Cultivation of vegetables, trees, plants and flowers and the raising of livestock so long as no permanent structures are present and so long as no restrictions now in force or hereafter enacted on the raising of livestock in the Town would be violated.

(2) Holding ponds and other structures for flood control, water storage and/or retention for potable or nonpotable use, and watershed protection.

(3) Public parks and golf courses, not including permanent buildings or structures.

(c) Uses by Special Review. Uses by special review in the CD District shall be as follows:

(1) Commercial mineral extraction activities, as restricted.

(2) Dwellings for caretakers.

(3) Gas, oil and other hydrocarbon well drilling and production (subject to state and local regulations).

(4) Permanent buildings and structures accessory to any uses by right.

(5) Radio towers of any height.

(6) Sanitary landfills developed and maintained according to all standards and requirements of state law.

(7) Signs not meeting the requirements of Article VII of this Chapter. (Ord. 480 §3.4, 2003)

**Sec. 16-3-310. E-1 Estate District – Rural Subdivision.**

(a) Intent. This is a very low-density residential district intended to encourage the preservation of open space, natural features and agricultural land in conjunction with the clustering of single-family detached dwellings; the maximum density is no more than one (1) single-family dwelling per twenty (20) acres, except that if the Town approves a conservation density bonus, the maximum density allowed shall be no more than one (1) single-family dwelling per five (5) acres, and the minimum lot size is eight thousand (8,000) square feet if adjacent to open space and ten thousand (10,000) square feet if not directly adjacent to open space.

(b) Principal Uses. Permitted principal uses in the E-1 District shall be as follows:

(1) Accessory buildings and accessory uses.

(2) Common equestrian stabling and grazing, provided the number of horses does not exceed two (2) per acre and at least one-half ( $\frac{1}{2}$ ) acre of pasture is available for each horse.

(3) Cultivation, storage and sale of crops, vegetables, plants, flowers and nursery stock produced on the premises.

(4) Group homes for up to eight (8) developmentally disabled persons, handicapped individuals, children or senior citizens.

(5) Home occupations.

(6) Parks and open space.

(7) Single-family detached dwellings.

(8) Utility service facilities.

(c) Uses by Special Review. Uses by special review in the E-1 District shall be as follows:

(1) Accessory dwelling when associated with a permitted use.

(2) Cemeteries.

(3) Child care centers.

(4) Community facilities.

(5) Gas, oil and other hydrocarbon well drilling and production (subject to state and local regulations).

(6) Golf courses.

(7) Limited outdoor recreation facilities.



- (8) Public and private schools for elementary, intermediate and high school education.
- (9) Public facilities, provided that business offices and repair and storage facilities are not included. (Ord. 480 §3.4, 2003)

**Sec. 16-3-320. R-1 Single-Family Residential.**

(a) Intent. This is a low-density housing district intended primarily for single-family uses on individual lots. This zone is characterized by tree-lined local streets, interconnected pedestrian circulation system and proximity to schools and parks.

(b) Uses by Right. Uses by right in the R-1 District shall be as follows:

- (1) Accessory buildings and accessory uses.
- (2) Group homes for up to eight (8) developmentally disabled, mentally ill or elderly persons.
- (3) Home occupations.
- (4) Public and private schools for primary education (grades K-12).
- (5) Public recreational facilities.
- (6) Single-family detached dwellings.

(c) Uses by Special Review. Uses by special review in the R-1 District shall be as follows:

- (1) Accessory dwelling when associated with a use by right.
- (2) Child care centers.
- (3) Community facilities.
- (4) Churches.
- (5) Foster care homes.
- (6) Gas, oil and other hydrocarbon well drilling and production (subject to state and local regulations).
- (7) Long-term care facilities.
- (8) Private recreational facilities.
- (9) Police and fire stations or facilities.
- (10) Public and private schools for secondary education.

(11) Signs not meeting the requirements of Article VII of this Chapter.

(12) Utility service facilities. (Ord. 480 §3.4, 2003)

**Sec. 16-3-330. R-1E Single-Family Estate Residential.**

(a) Intent. This is a low-density housing district intended primarily for single-family uses on large lots. This zone is generally located away from the core community, in areas that transition to more rural, agricultural uses on the outskirts of the planning area.

(b) Uses by Right. Uses by right in the R-1E District shall be as follows: All uses by right in the R-1 district.

(c) Uses by Special Review. Uses by special review in the R-1E district shall be as follows:

(1) All uses by special review in the R-1 District.

(2) Bed and breakfasts.

(3) Caretaker units. (Ord. 480 §3.4, 2003)

**Sec. 16-3-340. R-2 Two-Family Residential.**

(a) Intent. This residential zone is intended to preserve the traditional building pattern of mixed residential development, which historically has been integrated to form a vibrant, active and cohesive neighborhood unit. This district provides for two-family (duplex) dwelling units in addition to single-family detached dwelling units.

(b) Uses by Right. Uses by right in the R-2 District shall be as follows:

(1) All uses by right in the R-1 District.

(2) Two-family dwellings.

(c) Uses by Special Review. Uses by special review in the R-2 District shall be as follows:

(1) All uses by special review in the R-1 District.

(2) Bed and breakfasts. (Ord. 480 §3.4, 2003)

**Sec. 16-3-350. R-3 Multi-Family Residential.**

(a) Intent. This is a higher density residential zone intended primarily for multi-family uses.

(b) Uses by Right. Uses by right in the R-3 District shall be as follows:

(1) All uses by right in the R-2 District.

(2) Boarding and rooming houses.

- (3) Multi-family dwellings.
- (c) Uses by Special Review. Uses by special review in the R-3 District shall be as follows:
  - (1) All uses by special review in the R-2 District.
  - (2) Hospitals. (Ord. 480 §3.4, 2003)

**Sec. 16-3-360. MU-C-D Mixed Use Commercial – Downtown District.**

(a) Intent. The Mixed Use Commercial-Downtown District is intended to reflect the character of the original downtown and to provide for a mixture of uses that will strengthen and expand the core community and provide a transitional zoning area within the downtown as its land uses evolve and change over time. The area identified for MU-C-D is identified as one and one-half (1½) blocks on either side of State Highway 60 between Alice Avenue and Kathleen Avenue.

- (b) Uses by Right. Uses by right in the MU-C-D District shall be as follows:
  - (1) Residential Uses:
    - a. Single-family dwellings.
    - b. Two-family dwellings.
    - c. Home occupations.
  - (2) Institutional/Civic/Public Uses:
    - a. Police and fire stations or facilities.
    - b. Public and private schools for primary education (K-12).
    - c. Utility service facilities.
    - d. Community facilities.
  - (3) Commercial/Retail Uses:
    - a. Artisan and photography studios and galleries.
    - b. Bed and breakfasts.
    - c. Boarding and rooming houses.
    - d. Child care centers.
    - e. Commercial recreational facilities.

- f. Convenience retail stores.
- g. Financial services.
- h. Gasoline service stations, with repair and servicing facilities or capabilities.
- i. Grocery stores.
- j. Medical and dental offices and clinics.
- k. Mixed use dwelling units.
- l. Open air farmers' market.
- m. Personal and business service shops.
- n. Professional offices.
- o. Private recreational facilities.
- p. Restaurants, not including drive-ins.
- q. Retail sales.
- r. Tourist facilities.

(c) Uses by Special Review. Uses by special review in the MU-C-D District shall be as follows:

- (1) Bars and taverns.
- (2) Clubs and lodges.
- (3) Churches.
- (4) Entertainment facilities and theaters, seating capacity not over one thousand (1,000).
- (5) Gas, oil and other hydrocarbon well drilling and production (subject to state and local regulations).
- (6) Hospitals and long-term care facilities.
- (7) Hotels and motels.
- (8) Parking lots and parking garages.
- (9) Public and private schools for secondary education.
- (10) Signs not meeting the requirements of Article VII of this Code.
- (11) Workshops and custom small industry uses.

(d) MU-C-D Review Procedure. All MU-C-D District applications shall be submitted and processed simultaneously with the processing of subdivision and development plan applications for the property. The process is set forth in Sections 16-4-160 through 16-4-190 of this Chapter, Subdivision Regulations. This includes all preapplication conferences, Planning Commission visioning meetings, sketch plan, preliminary plat and final plat applications, and all required public hearings. Scheduling requirements for MU-C-D applications shall match those specified for sketch plans and preliminary and final plats. Development within a MU-C-D District cannot occur unless and until a final plat and final development plan for the portion of the property to be developed have been approved and recorded as provided in Article IV of this Chapter and specified in the following Subparagraph (e).

(e) MU-C-D Application Submittal Requirements. In addition to all of the information required as part of the sketch plan, preliminary plat and final plat application packages (as specified in the Sections 16-4-160 through 16-4-190 of this Chapter), applications for a MU-C-D District shall include a preliminary and a final PUD development plan.

(1) Preliminary MU-C-D Development Plan.

a. MU-C-D application fee.

b. As part of the general development information, provide written and visual materials which describe the MU-C-D and specifically address the following items:

1. Describe the mixture of primary and secondary uses within the MU-C-D development and how they will relate to one another and strengthen the diversity within the overall downtown.

2. Describe a discernable activity center within the project that will serve to bring people together.

3. Describe how the development will connect to and interface with Milliken's downtown and help to knit the community together through the street and pedestrian network.

4. Describe the mixture of building types and architectural styles and how they will contribute to Milliken's small-town character and diversity and reflect the design vocabulary outlined in Section 16-2-835 of this Code.

5. Describe how the site design of commercial or civic areas serves to enhance the view from the streets by placing buildings closer to the street, locating parking to the side and rear of buildings. Further, describe how pedestrian movement will be given a priority within the development and how landscaping will be used to provide adequate shade.

6. Provide any additional relevant information that the Town may deem necessary.

c. Preliminary MU-C-D Development Plan – Prepare the preliminary MU-C-D development plan using the preliminary plat map as the base. Include on the base a clear graphic and/or written representation of:

1. All uses by right, uses by special review and accessory uses within each land use category within the MU-C-D; i.e., single-family, multi-family, commercial, etc., either listed specifically or by reference to the zoning districts within the Town.

2. Standards for uses by right and accessory uses within each land use category, to include:

- a. Minimum lot area.
- b. Minimum front, side and rear yard setbacks.
- c. Maximum lot coverage.
- d. Maximum floor area ratio (total floor area to total lot area).
- e. Maximum building height.

3. Proposed phasing for the development.

(2) Final MU-C-D Development Plan.

a. MU-C-D application fee.

b. Written and graphic MU-C-D description as part of the general development information, based on the materials submitted for the preliminary MU-C-D development plan and on comments received from the Town at the time of preliminary plan review. Include all of the items listed above for the preliminary MU-C-D development plan, in finalized form. Also include an explanation of how the final MU-C-D development plan is consistent with the preliminary MU-C-D development plan, or if there are differences, the rationale for the changes.

c. Final MU-C-D Development Plan - Prepare the final MU-C-D development plan using the final plat map as the base. Include on the base a clear graphic and written representation of all of the information/items required for a preliminary MU-C-D development plan as listed above, in finalized form.

d. Provide any additional relevant information that the Town may deem necessary.

(f) MU-C-D Review Criteria.

(1) Preliminary MU-C-D Development Plan Review Criteria. The following review criteria will be used by the Staff, Planning Commission and Board of Trustees to evaluate all MU-C-D applications at the time of preliminary MU-C-D plan/preliminary plat review:

a. The MU-C-D development plan proposes creative and innovative design and high quality development and is therefore effectively consistent with the community design principles and development standards established in Article II of this Chapter.

b. The uses and densities in the proposed MU-C-D are compatible, and will be effectively integrated with adjacent neighborhoods that now exist or are proposed in the future.

c. The proposed MU-C-D is in general conformance with the Comprehensive Plan.

(2) Final MU-C-D Development Plan Review Criteria. In addition to all of the review criteria for a preliminary MU-C-D development plan, the following review criteria will be used by the Staff and Board of Trustees to evaluate all MU-C-D applications at the time of final MU-C-D plan/final plat:

a. The final MU-C-D development plan is substantially consistent with the preliminary MU-C-D development plan as approved by the Board of Trustees.

b. All preliminary MU-C-D development plan conditions of approval have been adequately addressed on the final MU-C-D development plan. (Ord. 480 §3.4, 2003)

**Sec. 16-3-370. R-M Mobile Home Community District.**

(a) Intent. This is a residential district for mobile home parks and mobile home communities, subject to the provisions of the Town's mobile home ordinance.

(b) Uses by Right. Uses by right in the R-M District are those that are authorized under a mobile home community license issued pursuant to the ordinances of the Town. The R-M District classification shall be assigned to all lands within the Town that are presently licensed.

(c) Uses by Special Review. Uses by special review in the R-M District include all uses by special review in the R-1 District, provided that such uses are not incompatible with the use of the lands for mobile home communities and also provided that such uses shall not be allowed in mobile homes if that would involve building code violations. (Ord. 480 §3.4, 2003)

**Sec. 16-3-380. R-MH Manufactured Housing District.**

(a) Intent. This is a low density residential zoning district intended primarily for single-family uses on individual lots within a manufactured housing development.

(b) General Requirements. Requirements applicable to R-MH District include the following: The minimum parcel size for a manufactured housing development in the R-MH District shall be six (6) acres.

(c) Uses by Right. Uses by right in the RM-H District include the following:

(1) Accessory buildings and accessory uses.

(2) Manufactured housing units.

(d) Uses by Special Review. Uses by special review in the R-MH District include all uses by special review in the R-1 District, provided that such uses are not incompatible with the use of the lands for manufacture housing developments and also provided that such uses shall not be allowed in manufactured housing units if that would involve building code violations. (Ord. 480 §3.4, 2003)

**Sec. 16-3-390. C-1 Office District.**

(a) Intent. This is a commercial zoning district intended to establish and preserve areas for office uses and related commercial goods and services.

(b) Uses by Right. Uses by right in the C-1 District shall be as follows:

- (1) Accessory buildings and accessory uses.
- (2) Artisan and photography studios and galleries.
- (3) Community facilities.
- (4) Churches.
- (5) Financial services.
- (6) Funeral homes.
- (7) Hospitals and long-term care facilities.
- (8) Medical and dental offices and clinics.
- (9) Personal and business service shops.
- (10) Police and fire stations and facilities.
- (11) Professional offices.
- (12) Public and private primary and secondary schools.
- (13) Public recreational facilities.
- (14) Utility service facilities.

(c) Uses by Special Review. Uses by special review in the C-1 District shall be as follows:

- (1) Those referred to in Section 16-3-310 of this Article.
- (2) Child care centers.
- (3) Clubs and lodges.
- (4) Parking lots or parking garages with six (6) or fewer parking stalls.
- (5) Private recreational facilities. (Ord. 480 §3.4, 2003)



**Sec. 16-3-400. C-2 Local Business District.**

(a) Intent. This is a commercial zoning district intended to establish and preserve areas for local business uses serving Milliken residents.

(b) Uses by Right. Uses by right in the C-2 District shall be as follows:

- (1) All uses by right in the C-1 District.
- (2) Grocery stores.
- (3) Restaurants, excluding drive-ins.
- (4) Retail sales facilities with a gross floor area less than five thousand (5,000) square feet.

(c) Uses by Special Review. Uses by special review in the C-2 District shall be as follows:

- (1) Those referred to in Section 16-3-310 of this Article.
- (2) Clubs and lodges.
- (3) Convenience retail stores.
- (4) Gasoline service stations without repair and servicing facilities or capability.
- (5) Mini-storage facilities.
- (6) Private recreational facilities. (Ord. 480 §3.4, 2003)

**Sec. 16-3-410. C-3 General Business District.**

(a) Intent. This is a commercial zoning district intended to establish and preserve areas for a wide range of commercial goods and services, including retail stores and convenience services. The character of these uses requires convenient vehicular access from major streets.

(b) Uses by Right. Uses by right in the C-3 District shall be as follows:

- (1) All uses by right in the C-1 and C-2 districts.
- (2) Bars and taverns.
- (3) Bed and breakfasts.
- (4) Clubs and lodges.
- (5) Commercial recreational facilities.
- (6) Convenience retail stores.
- (7) Entertainment facilities and theaters, seating capacity not over one thousand (1,000).

- (8) Gasoline service stations with and without repair and servicing facilities or capability.
  - (9) Hotels and motels.
  - (10) Lumber yard not including outdoor storage.
  - (11) Parking lots and parking garages.
  - (12) Print shops.
  - (13) Private recreational facilities.
  - (14) Restaurants, including drive-ins.
  - (15) Retail sales facilities with a gross floor area of five thousand (5,000) square feet or greater.
  - (16) Supermarkets.
  - (17) Transportation headquarters, without repair and servicing facilities or capability.
  - (18) Veterinary facilities, small animal clinics.
- (c) Uses by Special Review. Uses by special review in the C-3 District shall be as follows:
- (1) Those referred to in Section 16-3-310 of this Article.
  - (2) Entertainment facilities and theaters, seating capacity over one thousand (1,000).
  - (3) Mini-storage facilities. (Ord. 480 §3.4, 2003)

**Sec. 16-3-420. C-4 Service Business District.**

(a) Intent. This is a commercial zoning district intended to establish and preserve areas for more intense commercial and wholesale uses, including automobile-related service and sales.

(b) Uses by Right. Uses by right in the C-4 District shall be as follows:

- (1) All uses by right in the C-1, C-2 and C-3 Districts.
- (2) Auto, recreational vehicle, boat and truck sales.
- (3) Commercial storage facilities.
- (4) Establishments for the rental of tools, equipment and vehicles.
- (5) Gasoline service stations, repair garages and car washes.
- (6) Lumberyards, not including those with outside storage areas.

- (7) Small equipment repair facilities.
- (8) Wholesale merchandise establishments.
- (9) Workshops and small custom industry uses.
- (c) Uses by Special Review. Uses by special review in the C-4 District shall be as follows:
  - (1) Those referred to in Section 16-3-310 of this Article.
  - (2) Drive-in theaters.
  - (3) Entertainment facilities and theaters, seating capacity over one thousand (1,000).
  - (4) Horseback riding stables and arenas.
  - (5) Mini-storage facilities. (Ord. 480 §3.4, 2003)

**Sec. 16-3-430. I-1 Light Industrial District.**

(a) Intent. This zoning district is intended to provide locations for a variety of light industrial uses, research and development offices and institutions.

- (b) Uses by Right. Uses by right in the I-1 District shall be as follows:
- (1) Accessory uses and accessory buildings.
  - (2) Auto, recreational vehicle, boat and truck sales.
  - (3) Churches.
  - (4) Commercial recreational facilities.
  - (5) Commercial storage facilities.
  - (6) Community facilities.
  - (7) Entertainment facilities and theaters, seating capacity over one thousand (1,000).
  - (8) Establishments for the rental of tools, equipment and vehicles.
  - (9) Gasoline service stations, repair garages and car washes.
  - (10) Lumberyards, not including those with outside storage areas.
  - (11) Manufacturing, assembly packaging or processing from previously prepared materials.

- (12) Mini-storage facilities.
  - (13) Newspaper plants.
  - (14) Parking lots and parking garages.
  - (15) Police and fire stations and facilities.
  - (16) Print shops.
  - (17) Private recreational facilities.
  - (18) Professional offices.
  - (19) Research, experimental or testing laboratories.
  - (20) Small equipment repair facilities.
  - (21) Transportation headquarters, without repair and servicing facilities or capability.
  - (22) Wholesale merchandise establishments.
  - (23) Water treatment and wastewater treatment plants.
  - (24) Wireless telecommunications facilities (as permitted in Section 16-3-610 of this Article).
  - (25) Workshops and custom small industry uses.
  - (26) Utility service facilities.
- (c) Uses by Special Review. Uses by special review in the I-1 District shall be as follows:
- (1) One (1) or more uses by right in commercial districts that are not specifically permitted as uses by right in the industrial districts.
  - (2) Establishments for food and beverage processing.
  - (3) Establishments for the sale and repair of farm machinery and diesel trucks and buses.
  - (4) Public recreation facilities.
  - (5) Signs not meeting the requirements of Article VII of this Chapter.
  - (6) Utility service facilities with buildings and/or storage structures.
  - (7) Mini-storage facilities. (Ord. 480 §3.4, 2003)

**Sec. 16-3-440. I-2 Medium Industrial District.**

(a) Intent. This zoning district is intended to provide a location for a variety of medium industrial uses, warehousing and distributing, indoor and outdoor storage and a wide range of commercial and industrial operations.

(b) Uses by Right. Uses by right in the I-2 District shall be as follows:

- (1) All uses by right in the I-1 District.
- (2) Establishments for food and beverage processing.
- (3) Establishments for the sale and repair of farm machinery and diesel trucks and buses.
- (4) Lumberyards and builders supply facilities (with outdoor storage).
- (5) Machine shops.
- (6) Mini-storage facilities.
- (7) Outside storage facilities.
- (8) Railroad yards and stations.
- (9) Recycling facilities.
- (10) Transportation headquarters, with incidental repair and servicing facilities.
- (11) Utility service facilities with buildings and/or storage structures.

(c) Uses by Special Review. Uses by special review in the I-2 District shall be as follows:

- (1) Establishments for bulk storage of flammable liquids and gases.
- (2) Radio towers over sixty (60) feet in height.
- (3) Signs not meeting the requirements of Article VII of this Chapter. (Ord. 480 §3.4, 2003)

**Sec. 16-3-450. I-3 Heavy Industrial District.**

(a) Intent. This zoning district is intended to provide a location for a variety of heavy industrial uses.

(b) Uses by Right. Uses by right in the I-3 District shall be as follows: All uses by right in the I-2 District.

(c) Uses by Special Review. Uses by special review in the I-3 District shall be as follows:

- (1) One (1) or more uses by right in commercial districts that are not specifically permitted as uses by right in the industrial districts.
- (2) Adult-oriented uses, as defined.
- (3) Facilities for the manufacturing and storage of explosives.
- (4) Foundries.
- (5) Grain feed elevators.
- (6) Junkyards and salvage operations.
- (7) Livestock processing facility.
- (8) Signs not meeting the requirements of Article VII of this Chapter. (Ord. 480 §3.4, 2003)

**Sec. 16-3-460. PUD Planned Unit Development District.**

(a) Intent.

(1) The intent and purpose of the Planned Unit Development (PUD) District is to permit and encourage innovative design and high quality, master-planned developments. This district is created to allow and encourage compatible uses to be developed in accordance with a unified development plan in harmony with the environment and surrounding neighborhood. The PUD District is intended to permit greater flexibility in the application of zoning and development standards and greater freedom in providing a mix of land uses in the development of a balanced community. PUDs are expected to preserve critical environmental resources, provide above-average open space and recreational amenities, include exceptional design and provide greater efficiency in the layout and provision of roads, utilities and other infrastructure.

(2) This Article is intended to supersede the provisions of, and prevent the application in this Town of, the Planned Unit Development Act of 1972 (Title 24, Article 67, C.R.S.), except that this Article shall not be deemed to supersede the Planned Unit Development Act of 1972, appearing as Article 67 of Title 24, C.R.S., with respect to the provisions of that act pertaining to the continued maintenance and upkeep of open space and other commonly owned areas and the consequences of failing to maintain such areas.

(b) Permitted Uses.

(1) Any combination of uses may be permitted in a PUD District so long as the Board of Trustees determines that such uses are compatible with one another and with any property that could reasonably be impacted by the development of any proposed PUD. Compatibility shall be

determined based on the extent to which any proposed use of land within the PUD would unreasonably interfere with the use and enjoyment of any other use of land within the PUD. Factors which may be considered include the type and intensity of uses, the extent to which uses complement one another, the bulk of structures associated with use, and the noise, light, traffic, vibrations and other similar external impacts associated with each use.

(2) The density and/or intensity of development shall be based on the capacity of the land proposed for development to support the PUD as well as the impact of the proposed development on Town services and facilities and on neighboring property that reasonably could be impacted by the proposed development. Capacity of the land shall be determined based on the size, topography and geological and environmental limitations of the land proposed for development. Notwithstanding the foregoing, residential development shall not exceed a gross density of twelve (12) units per acre; commercial development shall not exceed a floor area ratio of 0.5; office development shall not exceed a floor area ratio of 4.0; industrial development shall not exceed a floor area ratio of 1.0. In a mixed-use PUD, the gross density shall be calculated based on the gross land area devoted to each type of use.

(c) PUD Restrictions and General Requirements. Properties utilizing the PUD District shall be subject to the following:

(1) All PUD applications shall include a gross land area of not less than two (2) acres, except in the R-M and R-MH Districts, where the gross land area shall not be less than six (6) acres. Upon the specific request of the landowner or upon the recommendation of the Board of Trustees, the two-acre requirement set forth in this Section may be waived if, after considering the land use requested, the Board of Trustees finds that such waiver would be beneficial to the Town and foster the objectives of this Code.

(2) The area of land for the PUD may be controlled by one (1) or more landowners and must be developed under unified control or a unified plan of development.

(3) Areas designated as private streets and/or common open space including land, an area of water or a combination of land and water within the site designated for a PUD shall be designed and intended primarily for the use or enjoyment of residents, occupants and owners of the PUD; and provisions shall be made for the establishment of an organization for the ownership and maintenance of such private streets and/or common open space areas unless other adequate arrangements for the ownership and maintenance thereof are provided in a manner acceptable to the Town.

(4) All requirements set forth in this Code otherwise applicable to the area of land proposed for a PUD shall govern, except to the extent that the unified plan of development for residential, commercial, educational, recreational or industrial uses or any combination thereof may propose exceptions in lot size, bulk, type of use, density, lot coverage, open space or other standards within the existing land use regulations, except those development standards that are not open to modification (see Section 16-4-530 of this Code).

(5) No PUD may be approved by the Town without the written consent of the landowner whose property is included within the PUD.

(d) PUD Approval Procedure.

(1) All PUD District applications shall be submitted and processed simultaneously with the processing of subdivision applications for the property. The processes set forth in Sections 16-4-160 through 16-4-190 of this Code for major subdivisions shall be followed, including all preapplication conferences, Planning Commission visioning meetings, sketch plan, preliminary plat and final plat applications, and all required public hearings. Scheduling requirements for PUD applications shall match those specified for sketch plans and preliminary and final plats. In addition, an application for a PUD District amendment to the official zoning map shall be processed and subject to public hearings in the same manner as for other amendments to the official zoning map, as outlined in Section 16-3-540 of this Code.

(2) Rezoning to a PUD District shall occur concurrently with a preliminary plat/preliminary PUD development plan. Public hearings for the zoning of a property as a PUD District and for Preliminary PUD development plan approval may be combined or can occur separately. Development within a PUD District cannot occur unless and until a final plat for the portion of the property to be developed has been approved and recorded as provided in Article IV of this Chapter.

(3) Upon approval of a final PUD development plan, the Town, through its Board of Trustees, shall adopt an ordinance establishing the PUD District for the property in accordance with that plan.

(4) In addition to all of the information required as part of the sketch plan, preliminary plat and final plat application packages (as specified in Sections 16-4-160 through 16-4-190 of this Code), applications for a PUD development plan and PUD District shall include additional information as outlined below.

(e) Sketch PUD Development Plan Application Submittal Requirements.

(1) PUD application fee.

(2) Written PUD description as part of the general development information which includes:

a. List all subdivision regulation and community design and development standards exceptions proposed for the PUD and how the PUD complies with Section 16-2-20 of this Chapter.

b. Identify the underlying zoning districts for the property and describe any proposed modifications and/or restrictions to the allowed uses and/or standards within the districts. If any conditional uses are requested, explain how the conditional use review criteria (refer to Section 16-3-500 of this Article) will be addressed.



- c. Identify and explain the benefits which will be provided by the PUD to offset the impact of the modifications requested (i.e., if the minimum lot size is decreased, additional functional, centrally located common open space will be provided; or if the width of the local street right-of-way is decreased by eliminating on-street parking, then there will be designated parking areas within five hundred (500) feet of all residences, etc.). All proposed benefits must offset the proposed modifications.
  - d. Explain how the proposed PUD will be compatible with adjacent neighborhoods that now exist or are proposed in the future. Describe any proposed buffering techniques that serve to achieve such compatibility.
  - e. Provide any additional relevant information that the Town may deem necessary.
- (f) Preliminary PUD Development Plan Application Submittal Requirements.
  - (1) PUD application fee.
  - (2) Written PUD description as part of the general development information which includes:
    - a. List all subdivision regulations, community design and development standards and community design principle exceptions being proposed for the PUD and explain why such exceptions are justified.
    - b. Identify the underlying zoning districts for the property and describe any proposed modifications and/or restrictions to the allowed uses and/or standards within the districts. Provide a comparison between the proposed preliminary PUD plan to the elements and standards of the underlying zone districts as contained in this Code. If any conditional uses are requested, explain how the conditional use review criteria (refer to Section 16-3-530 of this Article) will be addressed.
    - c. Describe how the proposed PUD rezoning satisfies one or more of the criteria for amendments to the official zoning map (Section 16-3-530 of this Code).
    - d. Identify and explain the benefits that will be provided by the PUD to offset the impact of the modifications requested. The proposed benefits must offset the proposed modifications.
    - e. Explain how the proposed PUD will be compatible with adjacent neighborhoods that now exist or are proposed in the future. Describe buffering techniques that serve to achieve such compatibility.
    - f. An explanation of how the preliminary PUD development plan is consistent with the sketch PUD development plan, or if there are differences, the rationale for the changes.

g. Draft copies of owners' association documents (covenants, conditions, restrictions and any architectural design guidelines) that provide an acceptable program for the continuing maintenance of open space, recreational areas, walkways and private streets within the PUD; that detail the type of organizational structure responsible for such ongoing maintenance; and that provide for architectural review based on the design guidelines.

h. Provide any additional relevant information that the Town may deem necessary.

(3) Preliminary PUD Development Plan Map. Prepare the preliminary PUD development plan map using the preliminary plat map as the base. Refer to Section 16-4-170 of this Code for drawing standards and format. Include on the base a clear graphic and/or written representation of:

a. All principal, conditional and accessory uses within each land use category within the PUD; i.e., single-family, multi-family, commercial, etc., either listed specifically or by reference to the zoning districts within the Town. In particular, note any modifications to the principal, conditional and accessory uses of the underlying zone districts.

b. Standards for principal and accessory uses within each land use category, to include:

1. Minimum lot area.
2. Maximum lot coverage.
3. Maximum floor area ratio (total floor area to total lot area).
4. Maximum building height.
5. Parking requirements for principal, accessory and conditional uses.

6. Provide any additional relevant information that the Town may deem necessary.

(4) Proposed phasing for the development.

(g) Final PUD Development Plan Application Submittal Requirements.

(1) PUD application fee.

(2) Written PUD description as part of the general development information, based on the materials submitted for the preliminary PUD development plan and on comments received from the Town at the time of preliminary plan review. Include all of the items listed above for the preliminary PUD development plan, in finalized form. Also include an explanation of how the final PUD development plan is consistent with the preliminary PUD development plan, or if there are differences, the rationale for the changes.

(3) Final PUD Development Plan Map. Prepare the final PUD development plan map using the final plat map as the base. Refer to Section 16-4-180 of this Code for drawing standards and format. See the Workbook for sample certificates for the owner, Planning Commission, Board of Trustees and Clerk and Recorder. Include on the base a clear graphic and written representation of all of the information/items required for a preliminary PUD development plan as listed above, in finalized form.

(4) Provide any additional relevant information that the Town may deem necessary.

(h) PUD Review Criteria.

(1) Sketch PUD Development Plan Review Criteria. The following review criteria will be used by the Staff, Planning Commission and Board of Trustees to evaluate all PUD applications at the time of sketch PUD plan/sketch plan review:

a. The proposed benefits offset the proposed exceptions to the zoning and subdivision standards, and that such exceptions are in the best interest of the public health, safety and welfare.

b. The proposed PUD conforms to the PUD restrictions, and the proposed zoning is compatible with the surrounding land uses.

c. The PUD proposes creative and innovative design and high quality development, thereby protecting and promoting public safety, convenience, health and general welfare.

d. The uses and densities in the proposed PUD are compatible, and will be effectively integrated with adjacent neighborhoods that now exist or are proposed in the future.

e. The proposed PUD is in general conformance with the Comprehensive Plan, Community Design and Development Standards and the Johnstown/Milliken Parks, Trails, Recreation and Open Space Master Plan and the criteria as set forth in Section 16-2-20 of this Code.

f. One (1) or more of the criteria for amendment of the official zoning map has been satisfied.

(2) Preliminary PUD Development Plan Review Criteria. In addition to all of the review criteria for a sketch PUD development plan, the following review criteria will be used by the Town Staff and Board of Trustees to evaluate all PUD applications at the time of preliminary PUD plan/preliminary plat:

a. The preliminary PUD development plan is substantially consistent with the sketch development plan as approved by the Board of Trustees.

b. All sketch PUD development plan conditions of approval have been adequately addressed on the preliminary PUD development plan.

(3) Final PUD Development Plan Review Criteria. In addition to all of the review criteria for a preliminary PUD development plan, the following review criteria will be used by the Town Staff and Board of Trustees to evaluate all PUD applications at the time of final PUD plan/final plat:

a. The final PUD development plan is substantially consistent with the preliminary PUD development plan as approved by the Board of Trustees.

b. All preliminary PUD development plan conditions of approval have been adequately addressed on the final PUD development plan.

(i) Compliance with PUD District/Final Development Plan. The Board of Trustees may initiate the process to repeal the ordinance establishing the PUD District if:

(1) The project for which the PUD zone was established is not carried out pursuant to the approved final PUD development plan; provided, however, that the Board of Trustees may approve appropriate modifications to the final PUD development plan from time to time prior to completion of the proposed development; or

(2) Building activity for the PUD District has not commenced within a period of one (1) year after the effective date of the creating ordinance, unless otherwise approved by the Board of Trustees.

(j) Land Previously Zoned PUD. Any land previously zoned PUD, and partially developed prior to the date of adoption of this Code, may continue and complete such development under the terms and conditions of approval for that PUD; subject, however, to the provision that any major modifications, as determined by the Town, to that PUD shall require review and approval under the new requirements of this Code. (Ord. 480 §3.4, 2003)

#### **Sec. 16-3-470. Hillside/Ridgeline Protection Overlay District.**

(a) Intent and purpose. The intent and purpose of this overlay zone is to allow for low-intensity, residential development that addresses concerns for public health and safety and promotes the design criteria set forth below. All new development in this zone shall be sensitive to the hillside terrain and to the environmental constraints and shall provide for the conservation of existing natural open space lands, unique landforms, scenic hillsides and sensitive biological habitats. These environmental constraints include potential danger from fire, slope failure and erosion, as well as the difficulty of emergency evacuation. Protection of the physical environment, public views and aesthetic qualities associated with undeveloped lands is of critical concern in this zone. Low-intensity agricultural uses and passive, recreational uses are also appropriate for this zone.

(b) Design criteria.

(1) The area included in the hillside/ridgeline protection zone encompasses a substantial amount of the Town's undeveloped hillsides and ridgelines that overlook the Thompson River valley. Not only does this land incorporate some of the most undisturbed physical environments in the Town, but it also supports many environmentally sensitive habitats. These include ridgelines and unique landforms such as rock outcroppings and bluffs. In addition, land within this zone contains physical conditions such as steep topography and geologically sensitive areas that increase the environmental concerns of this zoning district.

(2) The following design criteria have been established to help ensure that future development proposals take the proper steps to avoid adverse impacts on these unique resources. In addition, all development proposals shall be subject to the zoning standards and design review procedures of this Code and shall be strictly evaluated for conformance with the Comprehensive Plan and the Johnstown/Milliken Parks, Trails, Recreation and Open Space Master Plan. The Town may also require detailed environmental studies to identify specific impacts and the necessary mitigation measures. All development proposals shall be subject to the following criteria:

a. Building Site. Buildings and other improvements should be located on slopes of less than thirty percent (30%), should be situated such that they do not adversely impact any mapped environmentally sensitive areas and should minimize impacts to ridgelines, geologic hazard areas, unique landforms and areas of high biological value.

b. Mass and Scale. The height and scale of the buildings should respect the natural surroundings and unique visual resources by incorporating designs that minimize bulk and mass, follow natural topography and minimize visual intrusion on the natural landscape. Structures shall be limited to one-story buildings.

c. Building Size. In addition to the mass and scale of the residence, the total square footage shall also be maintained at a size compatible with the open space characteristics of the hillsides. Residential designs should blend in with the surroundings, while minimizing their prominence to public view. As such, larger lots shall not necessarily enable the development of correspondingly larger homes.

d. Architectural Style. The architectural style, including materials and colors, should be compatible with the natural setting by encouraging designs that blend in with the surroundings. Natural materials, such as stone, and natural colors are required.

e. Grading. Development proposals should minimize grading of hillside areas by encouraging designs that follow the natural grade while maintaining a building mass and scale that is sensitive to topography.

f. Landscaping. The proposal should maintain native vegetation to the greatest extent possible and should include the provision of additional native vegetation to mitigate potential visual impacts and erosion concerns associated with the development proposal.

g. **Ridgelines.** No development shall be permitted which, in any way, alters an existing ridgeline, including topographic changes, visual obstruction or other direct impacts on the natural profile of the ridgeline. If, during the initial development review, it is determined that a project could impact other ridgelines not identified in the general plan, the appropriate mitigation measures shall be required to protect the physical and aesthetic character of the ridgeline. Such measures may include, but are not limited to, a restriction on ridgeline development and specific design modifications as may be required. It is the responsibility of the applicant to demonstrate with a view analysis that the development will not adversely impact the ridgeline and will fit into the site's context and surroundings.

h. **Setbacks for Ridgeline Development.** Notwithstanding the dimensional standards for individual zoning districts, all structures shall be set back a minimum distance of two hundred (200) feet from the edge of a ridgeline.

(c) **Uses permitted.** Buildings, structures and land shall be used, and buildings and structures shall hereafter be erected, designed, structurally altered or enlarged, within the HSP Overlay District as allowed in the underlying zone district, subject to compliance with the design criteria and standards contained in this Section. (Ord. 480 §3.4, 2003)

**Sec. 16-3-480. Matrix of uses by right and uses by special review by zoning district.**

The following codes are used in the table below:

P – Uses by Right (permitted uses)      S – Uses by Special Review      \* – Use Prohibited      US – Unspecified Use

PERMITTED USES	A	AE	E-1	R-1	R-1E	R-2	R-3	MU-C-D	CD	R-M	R-MH	C-1	C-2	C-3	C-4	I-1	I-2	I-3
<b>Residential Uses</b>																		
Accessory buildings and accessory uses <sup>1</sup>	P	P	P	P	P	P	P	P	*	*	P	*	*	*	*	*	*	*
Accessory dwelling when associated with a use by right <sup>2</sup>	S	S	S	S	S	S	S	S	S <sup>3</sup>	*S	S	*	*	*	*	*	*	*
Boarding and rooming houses	*	*	*	*	*	*	P	P	*	*	*	S	S	S	S	*	*	*
Cluster development	*	P	P	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*
Foster care home	*	*	*	S	S	S	S	S	*	S	S	S	S	S	S	*	*	*
Group homes	*	P	P	P	P	P	P	P	*	*	*	S	S	S	S	*	*	*
Manufactured housing unit/manufactured housing development	*	*	*	*	*	*	*	*	*	*	P	*	*	*	*	*	*	*
Mobile home unit/mobile home park or community	*	*	*	*	*	*	*	*	*	P	*	*	*	*	*	*	*	*
Multi-family dwellings	S <sup>4</sup>	*	*	*	*	*	P	*	*	*	*	S	S	S	S	*	*	*
Single-family detached dwellings	P <sup>5</sup>	P <sup>6</sup>	P	P	P	P	P	P	*	*	*	S	S	S	S	*	*	*
Town home dwelling	*	*	*	*	*	*	*	*	*	*	*	S	S	S	S	*	*	*
Two-family dwellings	*	*	*	*	*	P	P	P	*	*	*	S	S	S	S	*	*	*

<sup>1</sup> Accessory buildings shall not exceed a height of 15 feet or an area greater than 720 square feet. See Section 3.4.C.

<sup>2</sup> Accessory dwellings shall be limited to 850 square feet in floor area, with no more than 1 per lot in addition to the single-family dwelling.

<sup>3</sup> Dwellings for caretakers

<sup>4</sup> Multifamily dwellings for persons customarily employed at or engaged in farming, ranching or gardening

<sup>5</sup> One single-family dwelling unit with setback requirements as required for properties zoned R-1E

<sup>6</sup> One single-family dwelling per legal lot. The single-family dwelling shall be connected to and served by a public water system and an adequate sewage disposal system. The sewage disposal system shall comply with the Weld County Individual Sewage Disposal Regulations. Evidence that public water and adequate sewage disposal system are available to the legal lot shall be provided prior to the issuance of a building permit.

Land Use Code — Zoning

Uses by Right & Special Review Uses — §16-3-480

PERMITTED USES	A	AE	E-1	R-1	R-1E	R-2	R-3	MU-C-D	CD	R-M	R-MH	C-1	C-2	C-3	C-4	I-1	I-2	I-3
<b>Institutional/Civic Public Uses</b>																		
Airports and airstrips	S	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*
Borrow pits	P <sup>7</sup>	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*
Cemeteries	P	*	*	*	*	*	*	*	*	*	*	S	S	S	S	*	*	*
Churches	S	S	S	S	S	S	S	S		S	S	P	P	P	P	P	P	P
Community facilities	S	S <sup>8</sup>	S	S	S	S	S	P	*	S	S	P	P	P	P	P	P	P
Flood control facilities	*	*	S	*	*	*	*	*	P <sup>9</sup>	*	*	*	*	*	*	*	*	*
Parks and open space	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Police and fire stations and facilities	P	P	S	S	S	S	S	P	*	*S	S	P	P	P	P	P	P	P
Public and private schools for elementary, intermediate and high school education (K-12)	P <sup>10</sup>	P <sup>10</sup>	P	P	P	P	P	P	*	*	*	P	P	P	P	S	*	*
Public and private schools, including colleges (secondary education), vocational and technical training	*	S <sup>11</sup>	S	S	S	S	S	S	*	S	S	P	P	P	P	*	*	*
Public recreational facilities	P	P	P	P	P	P	P	P	P <sup>12</sup>	*	*	P	P	P	P	S	*	*
Transportation headquarters, without repair and servicing facilities or capability	*	*	*	*	*	*	*	*	*	*	*	*	*	P	P	P	P	P
Transportation headquarters, with incidental repair and servicing facilities	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	P	P
Utility service facilities	P	P	P	S	S	S	S	P	*	S	S	P	P	P	P	P	P	P

<sup>7</sup> Used temporarily and exclusively for the completion of a public road improvement project.

<sup>8</sup> Churches only.

<sup>9</sup> Holding ponds and other structures for flood control and watershed protection.

<sup>10</sup> Public schools and public school extension classes only.

<sup>11</sup> Private schools only.

<sup>12</sup> Public parks and golf courses only, not including permanent buildings and structures.



Land Use Code — Zoning

Uses by Right & Special Review Uses — §16-3-480

PERMITTED USES	A	AE	E-1	R-1	R-1E	R-2	R-3	MU-C-D	CD	R-M	R-MH	C-1	C-2	C-3	C-4	I-1	I-2	I-3
<b>Institutional/Civic Public Uses (Cont'd)</b>																		
Utility service facilities, with buildings and/or storage structures	S	*	S*	*	*	*	*	*	*	*	*	*	*	*	*	S	P	P
Water treatment and wastewater treatment plants	*	*	*	*	*	*	*	*	*	*	*	P	P	P	P	P	P	P
<b>Business/Commercial/Retail Uses</b>																		
Accessory buildings and accessory uses <sup>13</sup>	*	*	*	*	*	*	*	P	*	*	*	P	P	P	P	P	P	P
Adult uses including product sales and entertainment	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	S
Artisan and photography studios and galleries	*	*	*	*	*	*	*	P	*	*	*	P	P	P	P	*	*	*
Auto, recreational vehicle, boat and truck sales <sup>14</sup>	*	*	*	*	*	*	*	*	*	*	*	*	*	*	P	P	P	P
Bars and taverns	*	*	*	*	*	*	*	S	*	*	*	*	*	P	P	*	*	*
Bed and breakfasts	*	*	*	*	S	S	S	P	*	*	*	*	*	P	P	*	*	*
Child care centers	S	S	S	S	S	S	S	P	*	S	S	S	S	S	S	*	*	*
Clubs and lodges	*	*	*	*	*	*	*	S	*	*	*	S	S	P	P	*	*	*
Commercial recreational facilities	*	*	*	*	*	*	*	P	*	*	*	*	*	P	P	P	P	P
Convenience retail stores	*	*	*	*	*	*	*	P	*	*	*	*	S	P	P	*	*	*
Drive-in theaters	*	*	*	*	*	*	*	*	*	*	*	*	*	*	S	*	*	*
Entertainment facilities and theaters, seating up to 1,000	*	*	*	*	*	*	*	S	*	*	*	*	*	P	P	P	P	P

<sup>13</sup> See Section 3.4.D.

<sup>14</sup> Includes establishments with incidental repair and service facilities.

Land Use Code — Zoning

Uses by Right & Special Review Uses — §16-3-480

PERMITTED USES	A	AE	E-1	R-1	R-1E	R-2	R-3	MU-C-D	CD	R-M	R-MH	C-1	C-2	C-3	C-4	I-1	I-2	I-3
<b>Business/Commercial/Retail Uses (Cont'd)</b>																		
Entertainment facilities and theaters, seating over 1,000	*	*	*	*	*	*	*	*	*	*	*	*	*	S	S	P	P	P
Establishments for rental of tools, equipment and vehicles	*	*	*	*	*	*	*	*	*	*	*	*	*	*	P	P	P	P
Financial services	*	*	*	*	*	*	*	P	*	*	*	P	P	P	P	*	*	*
Funeral homes	*	*	*	*	*	*	*	*	*	*	*	P	P	P	P	*	*	*
Gasoline stations without repair or servicing facilities or capabilities	*	*	*	*	*	*	*	*	*	*	*	*	S	S	*	*	*	*
Gasoline service stations, repair garages and car washes	*	*	*	*	*	*	*	P	*	*	*	*	*	P	P	P	P	P
Grocery stores	*	*	*	*	*	*	*	P	*	*	*	*	P	P	P	*	*	*
Home occupations	P	P	P	P	P	P	P	*	*	P	P	*	*	*	*	*	*	*
Hospitals and long-term care facilities	*	*	*	*	*	*	S	S	*	*	*	P	P	P	P	*	*	*
Hotels and motels	*	*	*	*	*	*	*	S	*	*	*	*	*	P	P	*	*	*
Long-term care facilities	*	S	S	S	S	S	S	S	*	S	S	P	P	P	P	*	*	*
Lumberyards, not including outside storage	*	*	*	*	*	*	*	*	*	*	*	*	*	P	P	P	P	P
Lumberyards and builders supply facilities w/outside storage	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	P	P
Medical and dental offices and clinics	*	*	*	*	*	*	*	P	*	*	*	P	P	P	P	S	*	*
Mixed-use dwelling units	*	*	*	*	*	*	*	P	*	*	*	*	*	*	*	*	*	*
Open-air farmers' markets	P	*	*	*	*	*	*	P	*	*	*	*	*	*	*	*	*	*
Parking lots and parking garages	*	*	*	*	*	*	*	S	*	*	*	S <sup>15</sup>	*	P	P	P	P	P
Personal and business service shops	*	*	*	*	*	*	*	P	*	*	*	P	P	P	P	*	*	*

<sup>15</sup> With 6 or fewer parking stalls for use by automobiles, trucks or both.

Land Use Code — Zoning

Uses by Right & Special Review Uses — §16-3-480

PERMITTED USES	A	AE	E-1	R-1	R-1E	R-2	R-3	MU-C-D	CD	R-M	R-MH	C-1	C-2	C-3	C-4	I-1	I-2	I-3
<b>Business/Commercial/Retail Uses (Cont'd)</b>																		
Private recreational facilities	S	S	S	S	S	S	S	P	*	S	S	S	S	P	P	P	P	P
Print shops	*	*	*	*	*	*	*	*	*	*	*	*	*	P	P	P	P	P
Professional offices	*	*	*	*	*	*	*	P	*	*	*	P	P	P	P	P	P	P
Radio towers exceeding 60 ft. in height	*	*	*	*	*	*	*	*	S <sup>16</sup>	*	*	*	*	*	*	*	S	*
Restaurants/standard & fast food excluding drive-ins	*	*	*	*	*	*	*	P	*	*	*	*	P <sup>17</sup>	P	P	*	*	*
Restaurants including drive-ins	*	*	*	*	*	*	*	*	*	*	*	*	*	P	P	*	*	*
Retail sales facilities w/GFA less than 5,000 s.f.	*	*	*	*	*	*	*	P	*	*	*	*	P	P	P	*	*	*
Retail sales facilities w/GFA greater than 5,000 s.f.	*	*	*	*	*	*	*	P	*	*	*	*	*	P	P	*	*	*
Small equipment repair facilities	*	*	*	*	*	*	*	*	*	*	*	*	*	*	P	*	*	*
Supermarkets	*	*	*	*	*	*	*	*	*	*	*	*	*	P	P	*	*	*
Tourist facilities	*	*	*	*	*	*	*	P	*	*	*	*	*	*	*	*	*	*
Veterinary facilities, small animal clinics	P	*	*	*	*	*	*	*	*	*	*	*	*	P	P	*	*	*
Veterinary facilities, large animal clinics	P	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*
Wholesale merchandise establishments	*	*	*	*	*	*	*	*	*	*	*	*	*	*	P	P	P	P
<b>Industrial Uses</b>																		
Accessory buildings and accessory uses	*	*	*	*	*	*	*	*	S <sup>18</sup>	*	*	*	*	*	*	P	P	P
Commercial mineral extraction, processes and sales	S	*	*	*	*	*	*	*	S <sup>19</sup>	*	*	*	*	*	*	*	*	*

<sup>16</sup> Radio towers of any height in the CD zone require a special use permit.

<sup>17</sup> Not including those having a customer seating capacity of more than 100 seats.

<sup>18</sup> Permanent buildings and structures accessory to any uses by right.

<sup>19</sup> So long as all necessary local and state permits have been issued and all activities are in compliance with the conditions of the permits.

PERMITTED USES	A	AE	E-1	R-1	R-1E	R-2	R-3	MU-C-D	CD	R-M	R-MH	C-1	C-2	C-3	C-4	I-1	I-2	I-3
<b>Industrial Uses (Cont'd)</b>																		
Commercial storage facilities	*	*	*	*	*	*	*	*	*	*	*	*	*	*	P	P <sup>20</sup>	P <sup>19</sup>	P <sup>19</sup>
Establishments for bulk storage of flammable liquids and gases	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	S	*
Establishments for food and beverage processing	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	S	P	P
Establishments for sale and repair of farm machinery, diesel trucks and buses	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	S	P	P
Facilities for manufacturing and storage of explosives	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	S
Foundries	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	S
Gas, oil and other hydrocarbon well drilling and production (as permitted by state and local regulations)	S	S <sup>21</sup>	S <sup>21</sup>	S <sup>21</sup>	S <sup>21</sup>	S <sup>21</sup>	S <sup>21</sup>	S	S	S <sup>21</sup>	S <sup>21</sup>	S	S	S	S	S	S	S
Grain feed elevators	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	S
Junkyards and salvage operations <sup>22</sup>	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	S
Livestock processing facility	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	S
Machine shops	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	P	P
Manufacturing, assembly or packaging of products from previously prepared materials	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	P	P	P
Mini-storage facilities <sup>23</sup>	*	*	*	*	*	*	*	*	*	*	*	*	S	S	S	S	P	P

<sup>20</sup> Not including outside storage.

<sup>21</sup> No oil or gas wells shall be permitted on land zoned residential without written approval from the Board of Trustees.

<sup>22</sup> Provided that the following shall apply, in addition to any other imposed pursuant to the special review process: the area shall be set back at least 1,000 feet from any state or federal highway; the area must be arranged so that the salvage material does not exceed a height of 6 feet from ground level and so that fire lanes are provided.

<sup>23</sup> No rentable unit of which shall have a gross floor area greater than 300 square feet, and all of which are intended for rental primarily for personal, family or household purposes.

**Land Use Code — Zoning**

**Uses by Right & Special Review Uses — §16-3-480**

PERMITTED USES	A	AE	E-1	R-1	R-1E	R-2	R-3	MU-C-D	CD	R-M	R-MH	C-1	C-2	C-3	C-4	I-1	I-2	I-3
<b>Industrial Uses (Cont'd)</b>																		
Newspaper plants	*	*	*	*	*	*	*	*	*	*	*	*	*	*	P	P	P	P
Outside storage facilities	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	P	P
Railroad yards and stations <sup>24</sup>	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	P	P
Research, experimental or testing laboratories	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	P	P	P
Sanitary landfills <sup>25</sup>	S	*	*	*	*	*	*	*	S	*	*	*	*	*	*	*	*	*
Water treatment and wastewater treatment plants	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	P	P	P
Wireless telecommunications facilities	S <sup>26</sup>	*	*	*	*	*	*	*	*	*	*	*	*	*	*	P	P	P
Workshops and custom small industry uses	*	*	*	*	*	*	*	S	*	*	*	*	*	*	P	P	P	P
<b>Agricultural Uses</b>																		
Accessory buildings and accessory uses	P <sup>27</sup>	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*
Agricultural service establishments	S	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*
Animal boarding, including kennels	P <sup>28</sup>	S <sup>29</sup>	S <sup>29</sup>	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*
Cultivation, storage and sale of crops, vegetables, plants, flowers and nursery stock produced on the premises	P	P	P	*	*	*	*	*	P <sup>30</sup>	*	*	*	*	*	*	*	*	*

<sup>24</sup> With related buildings, structures and facilities used for the operation and maintenance of trains and railroads.

<sup>25</sup> Developed and maintained according to all standards and requirements of state law.

<sup>26</sup> One or more microwave, radio, television or other communication transmission or relay towers over 70 feet in height per lot.

<sup>27</sup> Accessory buildings with gross floor area larger than 1,500 square feet per building on lots in an approved or recorded subdivision plat or lots part of a map or plan filed prior to adoption of any regulations controlling subdivisions require use by special review approval.

<sup>28</sup> Where maximum number of animal units is not exceeded and where the vehicular traffic generated by the boarding activity is less than 15 trips per day to and from the property. Keeping, raising and boarding of exotic animals, as defined, requires use by special review approval.

<sup>29</sup> Dog and cat breeding; no more than 2 litters per year.

<sup>30</sup> The cultivation of vegetables, trees, plants and flowers and the raising of livestock so long as no permanent structures are present and no restrictions now in force or hereafter enacted on the raising of livestock in the Town would be violated.

**Land Use Code — Zoning**

**Uses by Right & Special Review Uses — §16-3-480**

PERMITTED USES	A	AE	E-1	R-1	R-1E	R-2	R-3	MU-C-D	CD	R-M	R-MH	C-1	C-2	C-3	C-4	I-1	I-2	I-3
<b>Agricultural Uses (Cont'd)</b>																		
Disposal of domestic sewage and septic sludge <sup>31</sup>	P	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*
Farming, ranching and gardening	P	P	P	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*
Grazing and keeping of livestock	P <sup>32</sup>	P <sup>29</sup>	P <sup>29</sup>	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*
Horseback riding, stables and arenas	P	S	P <sup>33</sup>	*	*	*	*	*	*	*	*	*	*	*	S	*	*	*
Livestock confinement	S	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*

(Ord. 480 §3.5, 2003)

<sup>31</sup> Subject to the additional requirements of Sections 48 and 49, respectively, of the Weld County Zoning Ordinance.

<sup>32</sup> Subject to animal unit restrictions. Livestock in excess of the bulk requirements for the Agricultural Zone District shall require a use by special review permit for a livestock confinement operation.

<sup>33</sup> Provided that the number of horses does not exceed 2 per acre and at least ½ acre of pasture is available for each horse.

**Sec. 16-3-490. Density and dimensional standards.**

The following specifications shall be required in the zones identified:

(1) Residential and Agricultural – Density and Dimensional Standards:

Residential Density and Dimensional Standards									
Zones Standards	A	AE	E-1	R-1	R-1E	R-2	R-3	R-M	R-MH
Minimum lot area per dwelling (square feet, unless otherwise noted)	No specific minimums	1.5 acre min. lot size and 2.5 acre max. lot size	20 acres <sup>34</sup>	7,500 or 2 times the ground floor area of the principal building, whichever is greater	13,000, or 4 times the ground floor area of the principal bldg., whichever is greater	6,000, or 2 times the ground floor area of principal bldg., whichever is greater	6,000 for apts and condos 2,000 for town homes	As required by mobile home ordinance	7,500
Maximum gross density (units per acre)		.66		5	3	7	20		5
Minimum lot frontage (feet)	60	60	60	60	75	60	60		60
Minimum front yard setback <sup>35</sup> (feet)	25	25	25	20	25	25	25	See mobile home ordinance	20
Minimum side yard setback (feet) (on street)	15	15	15	15	15	15	15, or 1 ft. for every 3 ft. or fraction thereof building height, whichever is greater		15
Minimum side yard setback (feet) (interior)		15	15	5 ft. or 1 ft. for every 3 ft. or fraction thereof of building height, whichever is greater	15	5 ft. or 1 ft. for 3 ft. or fraction thereof of building height, whichever is greater	10 ft. or 1 ft. for 3 ft. or fraction thereof of building height, whichever is greater		6

<sup>34</sup> If the Town approves a conservation density bonus, the maximum density is 1 unit per 5 acres.

<sup>35</sup> Swimming pools, spas and hot tubs; rear yard requirements. All swimming pools, spas and hot tubs, including aboveground and in-ground pools, having a depth greater than 18 inches shall only be placed or constructed in the rear yard of a residential lot. No swimming pools, spas or hot tubs shall be placed or constructed in the front yard or side yard of any residential lot.

Residential Density and Dimensional Standards									
Zones Standards	A	AE	E-1	R-1	R-1E	R-2	R-3	R-M	R-MH
Minimum distance between buildings (feet)			10	10	10	Subject to building codes	Subject to building codes	20	10
Minimum rear yard setback (feet)	20	20	20	20	20	20	20	10 or 20 <sup>36</sup>	20
Garage with entrance facing an alley	10	10	10	5	10	5	5	5	5
Maximum building height (feet)	35	35	35	35	35	35	40 <sup>37</sup>	35	35

<sup>36</sup> Rear spacing shall be 20 feet when units are side to end and 10 feet when units are end to end.

<sup>37</sup> If a lot in an R-3 District is adjacent to 1 or more lots in an R-1, R-1E or R-2 District, a building on the lot in the R-3 District shall not exceed 30 feet in height unless the building is set back at least 150 feet from the adjacent lot or lots in the R-1, R-1E or R-2 District.



(2) Commercial and Industrial Density and Dimensional Standards. The following codes are used in the table below:

— = No specific requirement

Commercial and Industrial Density and Dimensional Standards								
Zones Standards	I-1	I-2	I-3	MU-C-D	C-1	C-2	C-3	C-4
Minimum front yard setback (feet) <sup>38</sup>	30, or 50 if adjacent to a major arterial street	See I-1	See I-1	0	As provided in any applicable building code <sup>39</sup>	See C-1	See C-1	See C-1
Maximum front yard setback (feet)				15				
Minimum rear yard setback (feet)	As provided in any applicable building code <sup>40</sup>	See I-1	See I-1	0 <sup>41</sup>	As provided in any applicable building code <sup>39</sup>	See C-1	See C-1	See C-1
Required Side Yard Setback (on-street) <sup>39</sup>	30, or 50 if the adjacent to a major arterial street <sup>40</sup>	See I-1	See I-1	—	As provided in any applicable building code <sup>39</sup>	See C-1	See C-1	See C-1
Required Side Yard (interior)	As provided in any applicable building code <sup>40</sup>	See I-1	See I-1	—	As provided in any applicable building code <sup>39</sup>	See C-1	See C-1	See C-1
Maximum floor area ratio (ratio of total floor area to total lot area)				2:1				

<sup>38</sup> That portion of a lot that abuts a public street right-of-way, excluding public alleys, shall remain uncovered for a distance of 10 feet, measured at a right angle from the lot line towards the interior of the lot. This shall apply to lots in all zoning districts, except the MU-C-D District. Sidewalks and driveways may pass through the ten-foot strip.

<sup>39</sup> The required side or rear yards in commercial zoning districts shall be increased if the lot is adjacent to 1 or more residential zoning districts. In such cases the required yard shall be twice the height of the building on the lot in the commercial zoning district, or 25 feet, whichever is greater. The only structures permitted in these side or rear yard areas are driveways, sidewalks, signs, retaining walls and fences. Accessory buildings are not permitted in these special side or rear yards.

<sup>40</sup> The required side or rear yards in industrial zoning districts shall be increased if the lot is adjacent to 1 or more residential or commercial zoning districts. In such cases the required yard shall be twice the height of the building on the lot in the industrial zoning district, or 50 feet, whichever is greater. The only structures permitted in these side or rear yard areas are driveways, sidewalks, signs, retaining walls and fences. Accessory buildings are not permitted in these special side or rear yards.

<sup>41</sup> If alley-loaded parking is provided, minimum rear yard setback shall be 25 feet.

Commercial and Industrial Density and Dimensional Standards								
Zones Standards	I-1	I-2	I-3	MU-C-D	C-1	C-2	C-3	C-4
Maximum building height (feet) <sup>42</sup>				40	40 <sup>43</sup>	40 <sup>43</sup>	40 <sup>43</sup>	40 <sup>43</sup>
Maximum ground level footprint (square feet)				5000				
Maximum coverage of hard-surfaced area for commercial uses on commercial lots				—	85% <sup>44</sup>	85% <sup>44</sup>	85% <sup>44</sup>	85% <sup>44</sup>
Minimum lot area	See C-2	See C-2	See C-2	—	2 times the combined ground floor area of all principal and accessory buildings	No specified minimum but must be of sufficient size to allow for compliance with other requirements	No specified minimum but must be of sufficient size to allow for compliance with other requirements	No specified minimum but must be of sufficient size to allow for compliance with other requirements
Required Linear Footage Front Yard (feet)	60	60	60	—	60	60	60	60

(3) Yard Requirements.

a. On double-frontage lots (see Figure 2-5 of this Chapter), both streets shall be considered street frontages for purposes of calculating front yard setbacks.

b. On corner lots, all sides of the lot with street frontage shall meet the applicable front yard setback.

c. For purposes of setback calculations, a two-family dwelling shall be construed as one (1) building occupying one (1) lot.

<sup>42</sup> The building height limitations shall not apply to church spires, belfries, cupolas, or domes not used for human occupancy, nor to chimneys, water tanks, silos, nor to public building or structures located more than 1 foot horizontally from the property line for each foot of building height.

<sup>43</sup> For the downtown area, building height shall be of a similar height to existing adjacent buildings, but in no event shall it exceed the forty-foot height limit.

<sup>44</sup> Coverage for commercial uses on commercial lots in the downtown area may exceed 85%.

d. On a vacant lot bordered on two (2) sides by previously constructed legal nonconforming buildings which do not meet the required front yard setback for the zoning district, the required front yard setback for the vacant lot shall be calculated as the average front yard setback of the two (2) adjacent buildings. Where a vacant lot is bordered on only one (1) side by such a legal nonconforming building, the required front yard setback shall be calculated as the average of the front yard setback of the adjacent building and the minimum front yard setback for the zoning district.

e. That portion of a side yard that is overlapped by a front or rear yard shall be deemed a side yard for purposes of limitations applicable to side yards; and that portion of a front or rear yard overlapped by a side yard shall be deemed a front or rear yard, as the case may be, for purposes of limitations applicable to front or rear yards.

f. Permanent features and structures allowed within required yards shall include:

1. Cornices, canopies, eaves, chimneys or other similar architectural features if they extend no more than three (3) feet into a required setback and if they do not encroach into or overhang an easement;
2. Steps or ramps to the principal entrance and necessary landings, provided that they do not extend more than six (6) feet into the required setback;
3. Landscaping;
4. Driveways, sidewalks, signs, retaining walls and fences are allowed in required front, side and rear yards, provided that all other regulations of this Chapter pertaining to these items are complied with;
5. Utility service lines to a structure and utility lines, wires and associated structures within a utility easement;
6. Fire escapes, provided that they do not extend more than six (6) feet into the required setback;
7. Parking slabs, tennis courts and swimming pools may be extended into required rear yards and interior side yards up to five (5) feet of the required rear or side lot lines; and
8. Porches and patios attached to the primary structure, whether or not covered by roofs, may extend into required front yards up to ten (10) feet and into required interior side or rear yards up to five (5) feet from the side lot line or rear property line, respectively, provided that such porches or patios remain at least sixty-five percent (65%) open and unobstructed on three (3) sides. (Ord. 480 §3.6, 2003)

**Sec. 16-3-500. Uses by special review.****(a) Purpose.**

(1) In order to provide flexibility and to help diversify uses within a zoning district, specified uses are permitted in certain districts subject to the granting of a use by special review permit. Specific uses by special review for each zone district are listed in the Matrix of Permitted Uses by Zoning District (Section 16-3-480 of this Article).

(2) Because of their unusual or special characteristics, uses by special review require review and evaluation so that they may be located properly with respect to their effects on surrounding properties. The review process prescribed in this Section is intended to assure compatibility and harmonious development between uses by special review, surrounding properties and the Town of Milliken at large. Uses by special review may be permitted subject to such conditions and limitations as the Town may prescribe to ensure that the location and operation of the use by special review will be in accordance with the use by special review application review criteria. The scope and elements of any use by special review may be limited or qualified by the conditions applicable to the specific property. Where conditions cannot be devised to achieve these objectives, applications for use by special review permits shall be denied.

**(b) Use by Special Review – Review Process.**

(1) Step 1: Optional Preapplication Conference. The applicant may attend a preapplication conference with a representative from the Town of Milliken. The purpose of the meeting is to discuss the use by special review submittal requirements and review process.

(2) Step 2: Technical Advisory Committee Meeting. Staff shall schedule a meeting with appropriate referral agencies (i.e., oil and gas companies, water providers, RE-5J School District, Weld County Department of Public Health and Environment, Weld County Public Works Department, Milliken Post Office, Milliken Police Department, Milliken Fire District, Thompson Rivers Parks and Recreation District, etc.), appropriate Town Staff (i.e., Town Clerk, Town Planner, Town Engineer, Town Administrator, etc.) and the applicant to discuss the project.

(3) Step 3: Use by Special Review Application Submittal. The applicant shall submit one (1) copy of the complete use by special review application package to the Town Clerk and shall request that the application be reviewed by the Planning Commission and Board of Trustees. Use by special review requests shall include:

a. Land Use Application Form.

b. Application Fee and Fee Agreement. A nonrefundable fee is collected to cover the cost of review by the Town Attorney, Town Engineer, Town Planner and any other expert whom the Town may wish to employ; and notice and publication expenses. Actual costs may exceed the deposit; in this case, the applicant is liable for costs in excess of the application fee according to the fee agreement. The Town shall provide applicants with a copy of the most current fee schedule and fee agreement form.

c. Mineral Rights Affidavit. The mineral rights affidavit must be current and must be dated no more than thirty (30) days before the date of the sketch plan application submittal.

d. Use by Special Review – Technical Criteria Form (from Workbook).

e. Title Commitment. The title commitment must be current and dated no more than thirty (30) days from the date of use by special review application submittal.

f. Written statement describing how the proposal is consistent with the Comprehensive Plan, Community Design and Development Standards and the Johnstown/Milliken Parks, Trails, Recreation and Open Space Master Plan and any graphics necessary to describe the precise nature of the proposed use and its operating characteristics and to illustrate how all use by special review application review criteria have been satisfied. Applications for gravel resource extraction shall also demonstrate compliance with the Gravel Mining Reclamation Standards (Appendix III) of the Johnstown/Milliken Parks, Trails, Recreation and Open Space Master Plan.

g. A map showing the proposed development of the site, including topography, building locations, parking, traffic circulation, usable open space, landscaped area and utilities and drainage features.

h. Preliminary building plans and elevations sufficient to indicate the dimensions, general appearance and scale of all buildings.

i. Such additional material as the Town Clerk may prescribe or the applicant may submit pertinent to the application.

j. Surrounding and Interested Property Ownership Report. Provide the Town Clerk with a current list (not more than thirty [30] days old) of the names and addresses of the surrounding property owners (within three hundred [300] feet of the property), mineral interest owners of record, mineral and oil and gas lessees for the property and appropriate ditch companies. The applicant shall certify that the report is complete and accurate.

k. Public Hearing Notification Envelopes. Two (2) sets of stamped, addressed, certified (return receipt requested) envelopes. The envelopes shall have the Town of Milliken's address as the mailing address and return address and the envelopes shall be addressed to the surrounding property owners (within three hundred [300] feet of the property), mineral interest owners of record, oil and gas lessees for the property and the appropriate referral agencies.

l. Mineral, Oil and Gas Rights Documentation. Evidence that the applicant has contacted all mineral rights owners and all lessees of mineral, oil and gas rights associated with the site by certified mail and is working towards resolution. Included in the evidence must be the name of the current contact person, his or her phone number and mailing address, and a description of the issues.

(4) Step 4: Use by Special Review Application Certification of Completion and Report to Planning Commission. Within a reasonable period of time, Staff shall either certify the application is complete and in compliance with all submittal requirements or reject it as incomplete and notify the applicant of any deficiencies. The applicant shall then correct any deficiencies in the application package, if necessary, and submit the required number of copies of the application (as specified in the Use by Special Review Technical Criteria form) to the Town Clerk. The original application and all documents requiring a signature shall be signed in blue ink. After a complete application is received, Staff shall prepare a report to the Planning Commission explaining how the application is or is not consistent with the use by special review application review criteria.

(5) Step 5: Planning Commission Review of the Use by Special Review Application. The Planning Commission shall hold a meeting to review the application and determine if the application complies with the use by special review application review criteria. The Planning Commission will then recommend to the Board of Trustees approval, approval with conditions or denial.

(6) Step 6: Set Use by Special Review Public Hearing Date and Notify Public of Hearing. The Town Clerk shall send notice of public hearing to the applicant, all property owners of record within three hundred (300) feet of the property in question, all mineral interest owners of record, oil and gas lessees for the property, and the appropriate referral agencies no less than forty-five (45) days before the hearing. The referral information shall include the time and place of the public hearing, the nature of the hearing, the location of the subject property, and the applicant's name. The Town Clerk shall also publish notice in a newspaper of general circulation. The Town Clerk shall prepare a public hearing notification sign to be posted on the property by the applicant. The applicant shall furnish to the Town an affidavit of posting on a form provided by the Town Clerk. The hearing may be held no less than thirty (30) days from the date of property posting and newspaper publication. If the use by special review request is accompanying another application that is scheduled for public hearing before the Board of Trustees, one (1) public hearing may be held on both applications.

(7) Step 7: Board of Trustees Public Hearing and Action on the Use by Special Review. The Board of Trustees shall hold a public hearing on the use by special review application. Following the public hearing, the Board of Trustees may approve, conditionally approve or deny the use by special review application based on the use by special review application review criteria. A use by special review permit may be revocable, may be granted for a limited time period or may be granted subject to conditions as the Board of Trustees may prescribe. Conditions may include, but shall not be limited to: requiring special setbacks, open spaces, fences or walls, landscaping or screening, street dedication and improvement, regulation of vehicular access and parking, signs, illumination, hours and methods of operation, control of potential nuisances, prescription of standards for maintenance of buildings and grounds, and prescription of development schedules.

(8) Step 8: Record Use by Special Review Map. The applicant shall provide two (2) sets of signed Mylars to the Town. The Mylars shall have a signature block for the land owner and the Mayor for the Board of Trustees. The Town Clerk shall record one (1) original Mylar of the use by special review map in the office of the County Clerk and Recorder. The applicant shall pay the recording fee.

(c) Use by Special Review Application Review Criteria. The Town shall use the following criteria to evaluate the applicant's request:

(1) The use by special review will satisfy all applicable provisions of the zoning code and subdivision regulations unless a variance is being requested.

(2) The use by special review will conform with or further the goals, policies and strategies set forth in the Comprehensive Plan, Community Design Standards and Johnstown/Milliken Parks, Trails, Recreation and Open Space Master Plan. Applications for gravel resource extraction shall also comply with the Gravel Mining Reclamation Standards (Appendix III) of the Johnstown/Milliken Parks, Trails, Recreation and Open Space Master Plan.

(3) The use by special review will be adequately served with public utilities, services and facilities (i.e., water, sewer, electric, schools, street system, fire protection, storm drainage, refuse collection, parks system, etc.) and not impose an undue burden above and beyond those of the permitted uses of the district.

(4) The use by special review will not substantially alter the basic character of the district in which it is in or jeopardize the development or redevelopment potential of the district.

(5) The use by special review will result in efficient on- and off-site traffic circulation which will not have a significant adverse impact on the adjacent uses or result in hazardous conditions for pedestrians or vehicles in or adjacent to the site.

(6) Potential negative impacts of the use by special review on the rest of the neighborhood or of the neighborhood on the use by special review have been mitigated through setbacks, architecture, screen walls, landscaping, site arrangement or other methods. The applicant shall satisfactorily address the following impacts:

- a. Traffic;
- b. Activity levels;
- c. Light;
- d. Noise;
- e. Odor;
- f. Building type, style and scale;
- g. Hours of operation;
- h. Dust;

- i. Erosion control; and
- j. Effect on neighborhood character.

(7) The applicant has submitted evidence that all applicable local, state and federal permits have been or will be obtained. (Ord. 480 §3.7, 2003)

**Sec. 16-3-510. Nonconforming uses and structures.**

(a) Lawful Nonconforming Land Uses and Structures.

(1) Uses of land which were lawful under the prior zoning ordinance and which were existing on the effective date of this Chapter may be continued, even though contrary to this Chapter. Land uses which are lawful under this Chapter but which become unlawful because of later amendments to this Chapter or because of a change in zoning classification of the land used also may be continued as lawful nonconforming land uses.

(2) Structures which violate the provisions of Section 16-3-490 of this Article because they are either too close to lot lines or too high may continue to be occupied for lawful uses after the effective date of this Code if the structures and the positioning of the structures on their lots were in compliance with the prior zoning ordinance.

(3) Land uses or structures that were lawful under the prior zoning ordinance provisions of that ordinance are deemed to be lawful nonconforming land uses or structures under this Chapter.

(4) The provisions of Section 16-3-490 of this Article limiting the percentage of lots that can be covered, restricting the use of the outer ten (10) feet of certain lots and requiring landscaping in large parking areas shall not be applied so as to require the removal of structures lawfully existing under prior zoning ordinances.

(b) Limitation on Right to Change Nonconforming Uses. A lawful nonconforming use cannot be changed to another nonconforming use unless the new use would be more compatible than the existing use is with the land uses that are being made, or could be lawfully made, of land in the neighborhood.

(c) Limitation on Right to Modify Nonconforming Structures.

(1) Lawful nonconforming structures which house land uses which are lawful or nonconforming land uses under this Chapter may be repaired, remodeled or restored only if the usable floor space is not increased and if the outside dimensions of the structure, including the height dimension, are not increased.

(2) Structures which conform with this Chapter, but which house lawful nonconforming uses, may be repaired, remodeled or restored only if the usable floor space of the structure is not increased or if the outside dimensions of the structure, including the height dimensions, are not increased.



(d) Abandonment of Land Uses and Destruction of Structures.

(1) If a lawful nonconforming land use ceases for a continuous period of one hundred eighty (180) days, the lawful nonconforming use status shall be lost permanently and thereafter the property shall be used only in conformity to this Chapter.

(2) If a lawful nonconforming use is reduced in intensity for a continuous period of one hundred eighty (180) days, the property may not thereafter be used except at that reduced intensity.

(3) If a lawful nonconforming structure is damaged by fire, explosion, flood or other calamity to the extent that the cost of restoring it to its former condition would equal or exceed fifty percent (50%) of the cost of replacing the entire structure, the structure may be restored or rebuilt only if it, and the land use it houses, thereafter will comply in all respects with this Chapter. (Ord. 480 §3.8, 2003)

**Sec. 16-3-520. Appeals and variances.**

(a) Purpose. The Board of Adjustment shall hear and decide appeals from any order, requirement, decision or determination made by any administrative official charged with the enforcement of this Code. In addition, the Board of Adjustment shall hear and decide all requests for a variance from the requirements of this Code. Such variance shall not be granted if it would be detrimental to the public good, create a conflict with the Comprehensive Plan or impair the intent and purpose of this Code.

(b) Appeal Application. Any aggrieved person of interest may appeal a denial of a building or other development permit, or any order, requirement, decision, interpretation or determination made by an administrative official charged with the enforcement of this Code.

(1) An appeal to the Board of Adjustment shall be made within ten (10) days after denial of a building permit or other development permit, or receipt of a written notice of an order, requirement, decision, interpretation or determination by an administrative official of the Town. Failure to make a timely appeal shall be considered a waiver of the applicant's rights to appeal to the Board of Adjustment.

(2) The applicant shall file with the Town Clerk a written notice of appeal on a form approved by the Board of Adjustment and pay the fee set by the current fee schedule.

(3) The Town Clerk shall forward a copy of the notice of appeal to the Planning Staff or other appropriate administrative officer, who shall prepare a record of the Town action that is being appealed for consideration by the Board of Adjustment.

(c) Variance Application. Any person of interest, or an officer or department of the Town, may apply to the Board of Adjustment for a variance from the literal interpretation of the provisions this Code. For a variance request, the applicant shall submit the following to the Town Clerk:

(1) Land Use Application Form.

(2) Application Fee and Fee Agreement. A nonrefundable fee is collected to cover the cost of review by the Town Attorney, Town Engineer, Town Planner and any other expert whom the Town may wish to employ; and notice and publication expenses. Actual costs may exceed the deposit; in this case, the applicant is liable for costs in excess of the application fee according to the fee agreement. The Town shall provide the applicant with a copy of the most current fee schedule and fee agreement form.

(3) Variance. Technical Criteria form (from Workbook).

(4) Title Commitment. The title commitment must be current and dated no more than thirty (30) days from the date of preliminary plat application submittal.

(5) Explanation Letter. Identifying the variance being requested, a citation of the portion of this Land Use Code from which relief is requested and explaining what exceptional condition, practical difficulty or unnecessary hardship exists to require the variance. The letter shall also address how the variance, if granted, will not be detrimental to the public good, create a conflict with the Comprehensive Plan or impair the intent and purpose of this Code.

(6) Map. Staff will dictate map requirements based on the variance being requested. The map shall typically consist of a scale drawing depicting the property affected by the variance request, including but not limited to required or existing setbacks and proposed setbacks from adjacent lot lines or structures and any other information that will assist the Board of Adjustment in understanding the request.

(7) Surrounding and Interested Property Ownership Report. Provide the Town Clerk with a current list (not more than thirty [30] days old) of the names and addresses of the surrounding property owners (within three hundred [300] feet of the property), mineral interest owners of record, mineral and oil and gas lessees for the property and appropriate ditch companies. The applicant shall certify that the report is complete and accurate.

(8) Public Hearing Notification Envelopes. Provide the Town Clerk with two (2) sets of stamped, addressed, certified (return receipt requested) envelopes. The envelopes shall have the Town's address as the return address and the envelopes shall be addressed to the surrounding property owners (within three hundred [300] feet of the property), mineral interest owners of record, oil and gas lessees for the property and the appropriate referral agencies.

(d) Set Public Hearing and Complete Public and Referral Agency Notification.

(1) The Town Clerk shall publish notice in a newspaper of general circulation. The hearing may be held no less than thirty (30) days from the date of advertising.

(2) For a variance, in addition to the published notice, the Town Clerk shall send notice of public hearing to the applicant, all property owners of record within three hundred (300) feet of the property in question, all mineral interest owners of record, oil and gas lessees for the property and the appropriate referral agencies no less than forty-five (45) days before the hearing. The Town

Clerk shall also publish notice in a newspaper of general circulation. The Town Clerk shall prepare a public hearing notification sign to be posted on the property by the applicant no less than thirty (30) days before the hearing. The applicant shall furnish to the Town an affidavit of posting on a form provided by the Town Clerk. The hearing may be held no less than thirty (30) days from the date of posting the property.

(e) Planning Commission Review of the Appeal or Variance. The Planning Commission shall hold a meeting to review the application and determine if the application complies with the application review criteria. The Planning Commission will then recommend to the Board of Trustees approval, approval with conditions or denial.

(f) Board of Adjustment Public Hearing and Action on the Appeal or Variance Request. The Board of Adjustment ("Board") shall make the decision on appeals and variances at a regular meeting of the Board.

(1) The appellant, or the applicant for a variance, has the burden of proof to establish the necessary facts to warrant favorable action of the Board of Adjustment.

(2) The Board shall have all the powers of the applicable Town administrative official on the action appealed. The Board may in whole or in part affirm, reverse or amend the decisions of the applicable Town administrative official.

(3) The Board may impose reasonable conditions in its order to be complied with by the appellant in order to further the purposes and intent of this Land Use Code.

(4) The Board may impose any reasonable conditions on the issuance of a variance and may amend the variance from that requested.

(5) No single decision of the Board sets a precedent. The decision of the Board shall be made on the particular facts of each case.

(6) Variances granted by the Board of Adjustment shall be recorded with the County Clerk and Recorder at the expense of the applicant.

(g) Any appeal of the decision of the Board of Adjustment may be made to the District Court as provided by law; provided however, that such appeal must be made prior to thirty (30) days following the date of the final action taken by the Board of Adjustment, as provided by Rule 106, Colorado Rules of Civil Procedure.

(h) Appeal Criteria for Approval. The Board of Adjustment, in hearing an appeal from an interpretation of this Land Use Code, shall consider:

(1) The technical meaning of the provision being appealed;

(2) Evidence of the manner in which the provision has been interpreted in the past;

(3) The positive or negative impact of the requested appeal on the achievement of stated Town development goals and objectives; and

(4) The intent of the provision in implementing the Comprehensive Plan and the Community Design and Development Standards.

(i) The Town Planner shall represent the Town at the hearing. In approving a requested interpretation, the Board of Adjustment shall provide a written record of its findings and the Staff shall use it to propose amendments that address future interpretation problems.

(j) Variance Criteria for Approval.

(1) The Board of Adjustment shall not grant a variance to this Land Use Code, which:

a. Permits a land use not allowed in the zoning district in which the property is located.

b. Is in the public right-of-way or on public property.

c. Alters any definition of this Chapter.

d. Is other than the minimum variance that will afford relief with the least modification possible to the requirements of this Chapter.

e. Is based on physical conditions or circumstances of the property so general or recurring in nature as to reasonably make practicable the formulation of a general regulation to be adopted as an amendment to this Chapter.

f. Is based exclusively on findings of personal or financial hardship. Convenience, profit or caprice shall not constitute undue hardship.

(2) In order to grant a variance to this Land Use Code, the Board of Adjustment shall find that all the following have been satisfied:

a. That there are unique physical circumstances or conditions such as irregularity, narrowness or shallowness of the lot, or exceptional topographical or other physical condition particular to the affected property.

b. That, because of these unique physical circumstances or conditions, the property cannot be reasonably developed or used in compliance with the provisions of this Chapter.

c. That due to such unique physical circumstances or conditions, the strict application of this Chapter would create a demonstrated hardship.

d. That the demonstrable hardship is not self-imposed.

e. That the variance, if granted, will not adversely affect the proposed development or use of adjacent property or neighborhood.

f. That the variance, if granted, will not change the character of the zoning district in which the property is located;

g. That the variance, if granted, is in keeping with the intent of this Chapter.

h. That the variance, if granted, will not adversely affect the health, safety or welfare of the citizens of Town.

(3) The condition of any variance authorized shall be stated in writing in the minutes of the Board of Adjustment with the justifications set forth. (Ord. 480 §3.9, 2003)

#### **Sec. 16-3-530. Waivers.**

(a) Purpose. The Board of Trustees may authorize waivers from this Chapter in cases where, due to exceptional conditions peculiar to the site, practical difficulties or an unnecessary hardship is placed on the landowner. Such waiver shall not be granted if it would be detrimental to the public good, create a conflict with the Comprehensive Plan or impair the intent and purpose of this Code.

(b) Waiver Application and Waiver Requests In Conjunction with Other Applications. The applicant shall submit the following to the Town Clerk in conjunction with another application (i.e., zoning amendment): Explanation letter, identifying the waiver being requested and explaining what exceptional condition, practical difficulty or unnecessary hardship exists to require the waiver. The letter shall also address how the waiver, if granted, will not be detrimental to the public good, create a conflict with the Comprehensive Plan or impair the intent and purpose of this Code.

(c) Waiver Criteria for Approval. The condition of any waiver authorized shall be stated in writing in the minutes of the Board of Trustees with the justifications set forth. Waivers may be granted only if they meet the following criteria:

(1) The waiver, if granted, will not alter the essential character of the neighborhood or district in which the property is located, nor diminish the value, use or enjoyment of adjacent property.

(2) The waiver, if granted, is the minimum variance that will afford relief and is the least modification possible of the subdivision ordinance provisions that are in question.

(3) Such practical difficulties or unnecessary hardship has not been created by the applicant. (Ord. 480 §3.10, 2003)

**Sec. 16-3-540. Amendments.**

(a) Initiation of Amendments to Text or Official Zoning Map. The Board of Trustees may from time to time amend, supplement, change or repeal the regulations and provisions of this Article. Amendments to the text of this Code may be initiated by the Board of Trustees, Town Staff or Planning Commission, or by written application of any property owner or resident of the Town. Amendments to the zoning district map may be initiated by the Board of Trustees, Town Staff or the Planning Commission, or by a real property owner in the area to be included in the proposed amendment.

(b) General Rezoning of the Town. Whenever the zoning district map is in any way to be changed or amended incidental to or as part of a general revision of this Code, whether such revision is made by repeal of the existing zoning code and enactment of a new zoning code or otherwise, the requirement of an accurate survey map or other sufficient legal description of, and the notice to and listing of names and addresses of owners of real property in, the area of the proposed change, shall be waived. However, the proposed zoning map shall be available for public inspection in the Town Hall during regular business hours for fifteen (15) days prior to the public hearing on such amendments.

(c) Zoning Amendment Application Process.

(1) Step 1: Optional Preapplication Conference. The applicant may attend a preapplication conference with a representative from the Town. The purpose of the meeting is to discuss the zoning amendment, submittal requirements and review process.

(2) Step 2: Zoning Amendment Application Submittal. The applicant shall submit one (1) copy of the complete zoning amendment application package to the Town Clerk and shall request that the application be reviewed by the Planning Commission and Board of Trustees. Note: In the case of text amendments, only Items a and b are required.

a. Completed Land Use Application Form, Zoning Amendment – Technical Criteria Form (see Workbook), application fee and fee agreement.

b. Application Fee and Fee Agreement. A nonrefundable fee is collected to cover the cost of review by the Town Attorney, Town Engineer, Town Planner and any other expert whom the Town may wish to employ; and notice and publication expenses. Actual costs may exceed the deposit; in this case, the applicant is liable for costs in excess of the deposit. The Town shall provide the applicant with a copy of the most current fee schedule and fee agreement form.

c. Legal Notice Form. The applicant shall prepare the legal notice form and return it to the Town with an electronic copy of the legal description in MSWord™ format.

d. Mineral Rights Affidavit. The mineral rights affidavit must be current and must be dated no more than thirty (30) days before the date of the sketch plan application submittal.

e. A written description of the proposed change to the text of this Article, including the citation of the portion of the Article to be changed and the wording of the proposed change. The description must provide the rationale for the proposed change, citing specific difficulties with the existing text and similar provisions in zoning codes of other jurisdictions that support the rationale of the proposed change. Particular attention should be given to addressing the criteria listed in Subsection (d) below.

f. A legal description for all property to be considered for rezoning.

g. Current proof of ownership in the form of title insurance issued with thirty (30) days of submission of the application (for zoning map amendments only).

h. A zoning amendment map of the area included in the proposed change, twenty-four (24) inches high by thirty-six (36) inches wide, with the following information:

1. North arrow, scale 1" = 100' or 1" = 200', and date of preparation.
2. The subdivision or block and lot name of the area to be zoned (if applicable) at the top of each sheet.
3. Legal description of the area to be zoned (entire area and individual zoning districts). In unsubdivided property, zone boundaries shall be determined by a metes and bounds description.
4. Location and boundaries, including dimensions, of the property proposed for rezoning. Note: Zone boundaries are to be the centerlines of physical streets, roads, highways, alleys, railroad rights-of-way and channelized waterways, or such lines extended.
5. The acreage or square footage contained within the property proposed for rezoning.
6. All existing land uses in the proposed rezoning area.
7. Zoning and existing land uses on all lands adjacent to the proposed rezoning.
8. The location and dimensions for all existing public rights-of-way, including streets, and centerlines of watercourses within and adjacent to the rezoning.
9. The names of all adjoining subdivisions with lines of abutting lots, and departing property lines of adjoining properties not subdivided.
10. Certificate blocks for the Surveyor, Planning Commission, Board of Trustees, and County Clerk and Recorder (see Workbook for examples).
11. An AutoCAD™ drawing file (Release 12 or higher) of the zoning amendment map on 3½" IBM-formatted disk or by other acceptable electronic transfer shall also be provided.

- i. A written statement describing the proposal and addressing the following points:
    1. Need for the proposed rezoning.
    2. Present and future impacts on the existing adjacent zone districts, uses and physical character of the surrounding area.
    3. Impact of the proposed zone on area accesses and traffic patterns.
    4. Availability of utilities for any potential development.
    5. Present and future impacts on public facilities and services, including but not limited to fire, police, water, sanitation, roadways, parks, schools and transit.
    6. The relationship between the proposal and the Comprehensive Plan.
    7. Public benefits arising from the proposal.
  - j. Surrounding and Interested Property Ownership Report. Provide the Town Clerk with a current list (not more than thirty [30] days old) of the names and addresses of the surrounding property owners (within three hundred (300) feet of the property), mineral interest owners of record, mineral and oil and gas lessees for the property and appropriate ditch companies. The applicant shall certify that the report is complete and accurate.
  - k. Public Hearing Notification Envelopes. Two (2) sets of stamped, addressed, certified (return receipt requested) envelopes. The envelopes shall have the Town's address as the mailing address and return address and the envelopes shall be addressed to the surrounding property owners (within three hundred [300] feet of the property), mineral interest owners of record, oil and gas lessees for the property and the appropriate referral agencies.
  - l. It is the applicant's responsibility to ensure that accurate and complete information is provided.
- (3) Step 3: Zoning Amendment Application Certification of Completion. Within a reasonable period of time, Staff shall either certify that the application is complete and in compliance with all submittal requirements or reject it as incomplete and notify the applicant of any deficiencies. The applicant shall then correct any deficiencies in the application package, if necessary, and submit the required number of copies of the application (as specified in the Zoning Amendment Technical Criteria form) to the Town Clerk. The original application and all documents requiring a signature shall be signed in blue ink.
- (4) Step 4: Final Staff Review and Report to Planning Commission. Staff shall complete a final review of the resubmitted materials and prepare a report to the Planning Commission explaining how the application is or is not consistent with the Criteria for Amendments to the Official Zoning Map or Criteria for Amendments to the Text of the Zoning Code.



(5) Step 5: Set Zoning Amendment Public Hearing and Complete Public Notification Process. The Town Clerk shall send notice of public hearing to the applicant, all property owners of record within three hundred (300) feet of the property in question, all mineral interest owners of record, oil and gas lessees for the property and the appropriate referral agencies no less than forty-five (45) days before the initial Planning Commission public hearing. Such notice shall not be required for text amendments. The Town Clerk shall also publish notice in a newspaper of general circulation. For zoning map amendments, the Town Clerk shall prepare a public hearing notification sign to be posted on the property by the applicant. The applicant shall furnish to the Town an affidavit of posting on a form provided by the Town Clerk. The hearing may be held no less than thirty (30) days from the date of property posting and newspaper publication. If the zoning amendment request is accompanying another application that is scheduled for public hearings before the Planning Commission and Board of Trustees, one (1) public hearing may be held on both applications.

(6) Step 6: Planning Commission Public Meeting and Action on the Zoning Amendment. The Planning Commission shall hold a public meeting to review the zoning amendment based on the Criteria for Amendments to the Official Zoning Map or the Criteria for Text Amendments to the Zoning Code. The Planning Commission shall then make a recommendation to the Board of Trustees to approve, conditionally approve or deny the zoning amendment application.

(7) Step 7: Finalize Zoning Amendment Based on Planning Commission Comments. The applicant shall revise the zoning amendment application based on the Planning Commission's comments and submit it to the Town.

(8) Step 8: Notify Parties of Interest. Not less than thirty (30) days before the date scheduled for the initial Board of Trustees public hearing, Staff shall notify surrounding property owners within three hundred (300) feet, mineral interest owners of record, mineral and oil and gas lessees for the property and other interested parties. The notice shall include the time and place of the public hearing, the nature of the hearing, the location of the subject property and the applicant's name. Such notice shall not be required for text amendments.

(9) Step 9: Set Board of Trustees Public Hearing and Complete Public Notification Process. The Board of Trustees shall schedule a public hearing for the purpose of taking action on the zoning amendment. The Town Clerk shall publish notice in a newspaper of general circulation. The hearing may be held no less than thirty (30) days from the date of advertising.

(10) Step 10: Board of Trustees Public Hearing and Action on the Zoning Amendment. The Board of Trustees shall, after receiving the report and recommendations from the Planning Commission, hold a public hearing and act upon the proposed amendment. Following the required hearing, the Board of Trustees shall consider the comments and evidence presented at the hearing, evaluate the application in accordance with the criteria listed below and approve, approve with conditions or deny the application, in whole or in part. No petition for rezoning shall be granted where, within one (1) year preceding the date of filing of such petition with the Town Clerk, a petition for the same changes of the zoning district on the property described in such petition has been denied.

(11) Step 11: Post Approval Actions.

a. Upon approval of an amendment to the official zoning map by the Board of Trustees, the Town Clerk shall cause an appropriate revision of the official zoning map to be prepared for recording with the County Clerk and Recorder. In the event the zoning amendment was initiated by an interested party, the petitioner shall pay the Town's cost for the preparation of the revision to the official zoning map.

b. Upon approval of an ordinance amending, changing or repealing part of the text of this Article, the Town Clerk shall certify a copy of the ordinance and place it in the official records of the Town and make appropriate supplements to this Article.

c. The applicant initiating the official zoning map amendment shall have thirty (30) days after approval of the amendment by the Board of Trustees to submit to the Town Clerk two (2) Mylar copies and three (3) blue-line copies of the approved zoning amendment map for recording, along with the recording fees and all other costs billed by the Town relative to the zoning amendment. A licensed surveyor or engineer shall prepare the zoning amendment map. Inaccurate, incomplete or poorly drawn plans shall be rejected. In addition, the petitioner shall submit one (1) 11" x 17" Mylar reduction of the zoning amendment map and an AutoCAD™ drawing file (Release 12 or higher) of the zoning amendment map on 3½" IBM-formatted disk, or by other acceptable electronic transfer.

d. Within thirty (30) days of receipt of the zoning amendment map, the Town Clerk shall review the documents for compliance with the Board of Trustees' approval, obtain the Town officials' signatures and submit the approved zoning amendment map and the ordinance amending the official zoning map to the County Clerk and Recorder's Office for recordation.

(d) Criteria for Amendments to Official Zoning Map. For the purpose of establishing and maintaining sound, stable and desirable development within the Town, the official zoning map shall not be amended except:

(1) To correct a manifest error in an ordinance establishing the zoning for a specific property;

(2) To rezone an area or extend the boundary of an existing district because of changed or changing conditions in a particular area or in the Town generally;

(3) The land to be rezoned was zoned in error and as presently zoned is inconsistent with the policies and goals of the Comprehensive Plan;

(4) The proposed rezoning is necessary to provide land for a community-related use that was not anticipated at the time of the adoption of the Comprehensive Plan, and the rezoning will be consistent with the policies and goals of the Comprehensive Plan;

(5) The area requested for rezoning has changed or is changing to such a degree that it is in the public interest to encourage development or redevelopment of the area; or

- (6) A rezoning to a Planned Unit Development overlay district is requested to encourage innovative and creative design and to promote a mix of land uses in the development.

This declaration of criteria for zoning map amendments shall not control an amendment that occurs incidentally to a general revision of the zoning map, nor shall such criteria necessarily apply with respect to a comprehensive reclassification of land into the zoning districts established by this Article or established by any later comprehensive revision of this Article.

(e) Criteria for Text Amendments to the Zoning Code. For the purpose of establishing and maintaining sound, stable and desirable development within the Town, the text of this Chapter shall not be amended except:

- (1) To correct a manifest error in the text of this Article;
- (2) To provide for changes in administrative practices as may be necessary to accommodate changing needs of the community and the Town Staff;
- (3) To accommodate innovations in land use and development practices that were not contemplated at the adoption of this Article; or
- (4) To further the implementation of the goals and objectives of the Comprehensive Plan.

(f) Map – Amendment upon Zoning Establishment or Modification. Upon enactment of any ordinance annexing and establishing zoning or modifying existing zoning for any property, and upon final passage thereof, the Town shall amend the prior existing official maps to include the annexed area with the proper zoning classification or show the amended classification, as the case may be. Such updated, current official map shall contain, in table form, the date and number of the ordinance amending it, the date the map was amended to reflect each amendment and the initials of the person who checked and approved the change to the map. (Ord. 480 §3.11, 2003)

*Division 4  
Supplemental Uses*

**Sec. 16-3-610. Zoning and use of wireless telecommunication services, facilities and equipment.**

(a) Permitted Zoning District. Wireless telecommunication services facilities shall be permitted only in the industrial zoning districts (I-1, I-2 or I-3).

(b) Use Permitted by Special Review. It is unlawful for any person to install or operate such a wireless telecommunication services facility unless the Board of Trustees has first approved a use by special review provided in Section 16-3-500 of this Article. The approval of such use by special review does not relieve the operator from otherwise complying with all applicable regulatory requirements of the Town, state and federal governments.

(c) Application Requirements.

(1) Site Plans. The site plans for a wireless telecommunication service facility shall be submitted on one (1) or more plats or maps, at a scale not less than 1" = 50', showing the following information:

a. The proposed size, location and boundaries of the commercial mobile radio service facility site, including existing and proposed topography at two-foot intervals, referenced to USGS data, state plane coordinates and a legal description of the proposed site.

b. Elevations of all towers and equipment, indicating materials, overall exterior dimensions and colors.

c. True north arrow.

d. Locations and size of existing improvements, existing vegetation, if any; location and size of proposed improvements, including any landscaping.

e. Existing utility easements and other rights-of-way of record, if any.

f. Location of access roads.

g. The names of abutting subdivisions or the names of owners of abutting, unplatted property within three hundred (300) feet of the site; zoning and uses of adjacent parcels.

h. Proof of ownership in a form acceptable to the Town.

(2) Vicinity Maps. The vicinity maps submitted with an application under this Article shall include one (1) or more maps showing the location of existing and planned commercial mobile radio service facilities belonging to the applicant within five (5) miles of the proposed facility. Planned facilities may be identified in general terms and need not be address-specific.

(3) Written Narrative. The application shall include the following in narrative form:

a. The applicant's and surface owner's names, addresses, signatures and designation of agent, if applicable.

b. An explanation of the need for such a facility, operating plan and proposed coverage area.

c. If a freestanding facility is proposed, an analysis of alternatives to a freestanding facility within a one-mile radius of the facility.

d. A list of all permits or approvals obtained or anticipated to be obtained from local, state or federal agencies other than the Federal Communications Commission (FCC).

e. Affirmation that the proposed facility, alone or in combination with other like facilities, will comply with current FCC standards for cumulative field measurements of radio frequency power densities and electromagnetic fields.

f. Affirmation that the facility will comply at all times with current FCC regulations prohibiting localized interference with reception of television and radio broadcasts.

g. Affirmation that the facility will not interfere with any public safety frequencies servicing the Town and its residents.

h. Affirmation that, if approved, the applicant and surface owner will make the facility available, on a reasonable basis, to other service providers.

i. An explanation of compatibility with the Comprehensive Plan.

(d) Review Criteria. The recommendation of the Planning Commission and the decision of the Board of Trustees shall be based on whether the applicant has demonstrated that the proposed wireless telecommunications services facility meets the following standards:

- (1) The site plan complies with the foregoing requirements.
- (2) The vicinity map complies with the foregoing requirements.
- (3) The narrative for the application complies with the foregoing requirements.
- (4) When applicable, compliance with the setback and height requirements.
- (5) When applicable, compliance with the accessory building requirements.
- (6) When applicable, compliance with conditional mitigation co-location requirements as set forth.

The review criteria shall be included in the ordinance granting approval of the special use.

(e) Height and Setback Requirements. In all zoning districts where wireless telecommunications service facilities are allowed as uses by special review, the following apply:

- (1) Roof- or building-mounted commercial mobile radio service facilities may protrude no more than five (5) feet above the parapet line of the building or structure, nor more than two and one-half (2½) feet outside of the building wall unless sufficient screening methods are demonstrated and accepted as part of the approval.
- (2) Roof- or building-mounted whip antennas of no more than three (3) inches in diameter, in groupings of five (5) or less, may extend up to twelve (12) feet above the parapet wall.
- (3) Applicable zoning setback requirements of this Article must be met. At a minimum, all freestanding facilities shall be set back at least three hundred (300) feet from all residentially zoned properties or residential structures on properties otherwise zoned.

(f) Accessory Buildings Requirements.

(1) Accessory buildings located on the ground shall be no larger than four hundred (400) square feet and must be constructed of durable, low maintenance materials, architecturally compatible and integrated with existing buildings and structures. Sites with greater than one hundred (100) cubic feet of cabinet area, visible from a public right-of-way or residentially zoned or used area, must enclose the equipment in accessory buildings.

(2) Accessory buildings and facilities are to be screened, to the extent possible, from public streets and sidewalks, either by screening, landscaping, location or other techniques deemed sufficient.

(g) Building- or Roof-Mounted Facilities Requirements. Building- or roof-mounted facilities are to be screened from public view, either by screening, location or other techniques deemed sufficient.

(h) Freestanding Wireless Telecommunications Facilities Requirements. All freestanding wireless telecommunications facilities shall be designed and constructed in such a manner that they are:

(1) Capable of serving, through original construction, expansion or replacement, a minimum of two (2) users.

(2) Constructed as a monopole, which tapers toward the top of the pole to the degree allowed by structural requirements, unless some other decorative type of structure is proposed and approved.

(3) Of a neutral color, including fencing, buildings and cabinets, or to match existing buildings.

(4) Hold only lighting required by the Federal Aviation Administration; and no signage.

(5) No higher than fifty (50) feet from the ground, with an additional twenty (20) feet per co-locating user permitted, up to seventy (70) feet. Exceptions may be granted upon request by the applicant.

(6) Constructed in accordance with a certified engineer's specifications and in compliance with all applicable U.B.C. provisions.

(i) Conditional Mitigation Measures Co-location.

(1) The Town encourages co-location of wireless telecommunications facilities to minimize the number of sites.

(2) No wireless telecommunications facility owner or operator shall unfairly exclude a competitor from using the same facility or location. Unfair exclusion of use by a competitor may result in the revocation of the use by conditional review or site development plan.

(j) Application Fees. Each applicant shall pay a nonrefundable processing fee of five hundred dollars (\$500.00) to reimburse the Town for the legal, engineering and land planning costs of reviewing the application. Legal publication costs are in addition to the five hundred dollars (\$500.00) and will be billed separately by the Town. No permit will be issued until all fees are paid.

(k) Abandonment. At the request of the Town, the operator must furnish a statement to the Town indicating the operational status of the facility. If the use has been discontinued, the date on which the facility was last used shall also be provided. Commercial mobile radio service facilities not used for a continuous period of six (6) months shall be disassembled within twelve (12) months of the last use.

(l) Penalty. Any person who constructs, installs or uses, or who causes to be constructed, installed or used, any wireless telecommunications facility in violation of any provision of this Article or of the conditions and requirement of the conditional use permit, may be punished as provided in Article VI of this Chapter. Each day of unlawful operation constitutes a separate violation.

(m) Civil Action. In case any building or structure is or is proposed to be erected, constructed, reconstructed, altered or used or any land is or is proposed to be used in violation of any provision of this Article or the conditions and requirements of the commercial mobile radio service facility special use permit, the Town Attorney, in addition to the other remedies provided by law, ordinance or resolution, may institute an injunction, mandamus, abatement or other appropriate action or proceeding to prevent, enjoin, abate or remove such unlawful erection, construction, reconstruction, alteration or use. (Ord. 480 §3.12, 2003)

#### **Sec. 16-3-620. Home occupations.**

(a) Home occupations must meet the following standards:

(1) Medical and dental offices are not permitted as home occupations.

(2) In addition to the family occupying the dwelling containing the home occupation, there shall not be more than one (1) outside employee in the home occupation.

(3) The employee and clients may park in on-street curbside parking spaces.

(4) The home occupation shall not exceed one thousand (1,000) square feet or thirty (30) percent of the total square footage of the dwelling, whichever is less, or can be located in an accessory building not to exceed seven hundred twenty (720) square feet.

(5) All aspects of the home occupation operation shall not disrupt the residential character of the neighborhood or create noise or environmental hazards.

(6) A maximum of ten (10) clients may visit the home occupation per day.

(7) Home occupations may include state-licensed family child care homes (residential day care facilities) that have received zoning approval from the Town.

(b) Home occupations that cannot meet the above standards are not permitted unless a special use permit is applied for and granted. (Ord. 480 §3.13, 2003)